RULES OF PRACTICE IN TRADE-MARK CASES

The following rules governing the registration of trade-marks and other marks in the Patent Office, and other proceedings in the Patent Office relating to marks, have been adopted and promulgated under the authority of the Trade-Mark Act of 1946, effective July 5, 1947, and other authority, after publication of proposed rules and a hearing, and consideration of all material and arguments submitted.

[1] In the Federal Register and in the Code of Federal Regulations these rules are Part 100 of Title 37 and the individual rules, there called sections, are numbered with 100 prefixed to the numbers here used, with the decimal point following the 100.

In view of the novelty of many of the provisions of the Trade-Mark Act of 1946, it is recognized that changes may be required in these rules from time to time. It is respectfully requested that practitioners working under these rules promptly inform the Patent Office of any proposed changes that appear to be desirable.

These rules were published in the Federal Register for June 19, 1947.[1]

CASPER W. OOMS,
Commissioner of Patents.

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1. GENERAL INFORMATION

1.1 **All communications to be addressed to Commissioner of Patents.** All letters should be addressed to "The Commissioner of Patents, Washington 25, D. C."

1.2 **Business to be transacted in writing.** All business with the Patent Office should be transacted in writing. Personal appearance is unnecessary. The action of the Office will be based exclusively on the written record. No recognition will be given to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

1.3 **Business to be conducted with decorum and courtesy.** Applicants and their representatives will be required to conduct their business with the Patent Office with decorum and courtesy. Papers presented in violation of this requirement will be submitted to the Commissioner and will be returned by his direct order. Complaints against Examiners and other employees must be made in communications separate from other papers.

1.4 **Separate letters.** A separate letter should, in every instance, be written in relation to each distinct subject of inquiry.

1.5 **Identification of pending application or registered mark.** A letter relating to a pending application should identify it by the name of the applicant and the serial number and filing date of the application. A letter relating to a registered trade-mark should identify it by the name of the registrant and by the number and date of the certificate.

1.6 **Times for taking action expiring on Sunday or holiday.** Where the last day for taking any action falls on Sunday or on a holiday within the District of Columbia, the action may be taken on the next succeeding secular or business day.

1.7 **Inquiries.** The Patent Office cannot undertake to respond to inquiries whether certain trade-marks have been registered, or, if so, to whom, or for what goods; nor can it give legal advice or advice as to the registrability of a specified mark or the nature and extent of the protection afforded by the law, except as questions may arise in connection with pending applications. Information of a general nature may be furnished either by answering the inquiry or by providing or calling attention to an appropriate publication.

2. FEES AND PAYMENT OF MONEY

2.1 **Fees and charges.** The following is the schedule of fees and charges to be paid to the Patent Office:

(*a*)	On filing each original application for registration of a mark in each class on either the Principal or the Supplemental Register	$25.00
(*b*)	On filing each application for renewal in each class	25.00
(*c*)	On filing each application for renewal in each class after expiration of the registration, additional	5.00
(*d*)	On filing notice of claim of benefits of the act of 1946 for a mark to be published under section 12 (*c*) thereof	10.00
(*e*)	On filing notice of opposition or petition for cancellation	25.00
(*f*)	On appeal from the Examiner of Trade-Marks to the Commissioner	25.00
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(*h*)	For issuance of a new certificate of registration following change of ownership of a mark or correction of a registrant's mistake	10.00
(*i*)	For certificate of correction of registrant's mistake	10.00
(*j*)	For filing disclaimer, amendment, surrender, or cancellation after registration	10.00
(*k*)	For manuscript copies, for every one hundred words or fraction thereof	.10
(*l*)	For comparing other copies, for every one hundred words or fraction thereof	.05
(*m*)	For certification of copies in any case, additional	1.00
(*n*)	For each additional registration or application which may be included under a single certification, additional	.50

(o) For recording every assignment or other paper not exceeding six pages 3.00
For each additional two pages or less 1.00
For each additional registration or application included, or in-involved in one writing, where more than one is so included or involved, additional ..... .50

(p) For abstracts of title:
For the search, one hour or less, and certificate 3.00
Each additional hour or fraction thereof 1.50
For each brief from the digest of assignments of two hundred words or less 1.00

(q) For title reports required for Office use 1.00

(r) For a single printed copy of statement and drawing ..... .10

(s) For certificate that trade-mark has not been registered, search and certificate (for deposit in foreign countries only) 3.00

(t) For certified copies of certificates of registration:
For each copy of printed statement and drawing ..... .10
For each grant (certificate of registration) 1.00
For the certification 1.00
For each additional registration which may be included under a single certification, additional ..... .50
If renewed, for copy of each certificate of renewal 1.00

(u) For photostat copies of records and papers, per sheet ..... .20

(v) For photoprints of drawing ..... .20

(w) For making drawings, when they can be made by the Patent Office, the cost of making the same, minimum charge 5.00

(x) For correcting drawings, 20 cents for photoprint of uncorrected drawing, and the cost of making correction, minimum charge for making the correction 1.00

2.2 **Method of payment.** All payments of money required for Patent Office fees must be made in United States specie, Treasury notes, national bank notes, post office money orders or postal notes payable in Washington, D. C., or certified checks. Money orders and certified checks must be made payable to the Commissioner of Patents. If sent in any other form the Office may delay the credit until collection is made. Remittances from foreign countries must be payable and immediately negotiable in the United States for the full amount of the fee required. Money sent by mail to the Patent Office will be at the risk of the sender; letters containing money should be registered.

2.3 **Refunds.** Money paid by actual mistake or in excess, such as a payment not required by law, will be refunded, but a mere change of purpose after the payment of money, as when a party desires to withdraw his application for the registration of a mark or to withdraw an appeal, will not entitle a party to demand such a return. Amounts of ten cents or less will not be returned unless specifically demanded, nor will the payer be notified of such amount; amounts over ten cents but less than one dollar may be returned in postage stamps, and other amounts by check.

3. RECORDS AND PUBLICATIONS OF THE PATENT OFFICE

3.1 **Printed copies of registered marks available.** After a mark has been registered, printed copies of the statement, with a copy of the drawing, will be furnished by the Patent Office upon the payment of the fee therefor.

3.2 **Registration files open to public inspection.** After a mark has been registered, or published for opposition, the file of the application and all proceedings relating thereto are available for public inspection and copies of the papers may be furnished upon paying the fee therefor.

3.3 **Assignment records open to public inspection.** The assignment records are open to public inspection and copies of any assignment recorded may be obtained upon payment of the fee therefor. An order for a copy of an assignment should give the liber and page of the record. If identified only by the name of the applicant and serial number, or by the name of the registrant and registration number, an extra charge will be made for the time consumed in making a search for such assignment.

3.4 **Certified copies.** Copies of records, books, papers, or drawings belonging to the Patent Office relating to marks and copies of certificates of registration, authenticated by the seal of the Patent Office and certified by the Commissioner, or in his name by a chief of division duly designated by the Commissioner, will be furnished by the Patent Office to any person entitled thereto upon payment of the fee for the copies and for the authentication certificate.

3.5 **Official Gazette.** The Official Gazette of the United States Patent Office is published weekly and contains, in addition to the material relating to patents, information relating to trade-marks, including the text or digest of opinions in trade-mark cases. It includes:

(a) A list of marks published for opposition, with a reproduction of and information concerning each mark.

(b) A list of marks registered on the Principal Register and under the act of 1905.

(c) A list of registrations cancelled.

(d) A list of marks registered on the Supplemental Register and under the act of 1920, with a reproduction of and information concerning each mark.

(e) A list of registrations renewed.

(f) A list of marks republished under section 12 (c) of the Trade-Mark Act of 1946, with a reproduction of each mark.

(g) A list of registrations amended, surrendered, disclaimed, or corrected in accordance with section 7 (d), (f) and (g) of the act with a statement of any change in the registration.

Single copies and subscriptions are sold by the Superintendent of Documents, Government Printing Office, Washington, D. C. Part of the

trade-mark material is reprinted separately in a trade-mark leaflet which may be purchased or subscribed to separately.

3.6 **Annual trade-mark index.** An annual index of trade-marks registered is published, and sold by the Superintendent of Documents.

3.7 **Pamphlet of trade-mark laws and rules.** Pamphlet copies of trade-mark laws and rules, and of general information concerning trade-marks, are furnished without charge by the Patent Office.

4. ATTORNEYS AND REPRESENTATION BY ATTORNEYS

4.1 **Applicants may be represented by an attorney.** The owner of a trade-mark may file and prosecute his own application for registration of such trade-mark, or he may be represented by an attorney or other person authorized to practice in trade-mark cases. The Patent Office cannot aid in the selection of an attorney or agent.

4.2 **Persons who may practice before the Patent Office in trade-mark cases.** Attorneys at law in good standing admitted to practice before the Supreme Court of the United States, the United States Court of Customs and Patent Appeals, or the highest court of any State or Territory of the United States or of the District of Columbia, and persons registered to practice in the United States Patent Office in patent cases (Patent Rule 17) may practice before the Patent Office in trade-mark cases.

Attorneys at law. No register of attorneys who may practice before the Patent Office in trade-mark cases is maintained, and no application by an attorney at law for admission to practice is required. A statement in the power of attorney, or in an accompanying paper, of the bar to which the attorney at law is admitted is required, and recognition is limited to each case.

Attorneys and agents registered at the Patent Office. Persons or firms, including attorneys at law, who are registered to practice before the Patent Office need only specify the registration number in the power of attorney.

Special recognition. No persons other than those hereinabove mentioned will be permitted to practice before the Patent Office in trade-mark cases unless specially and formally recognized by the Commissioner of Patents, but any person may appear for himself in a proceeding to which he is a party, or for a firm of which he is a member, or for a corporation or association of which he is an officer and which he is authorized to represent, if such firm, corporation, or association is a party to the proceeding.

Refusal of recognition for cause. Persons entitled to be recognized under this rule may, nevertheless, be refused recognition for cause.

4.3 **Professional conduct.** Attorneys at law and other persons appearing before the Patent Office in trade-mark cases must conform to the standards of ethical and professional conduct generally applicable to attorneys before the courts.

4.4 **Advertising.** The use of display advertising, circulars, letters, cards, and similar material to solicit trade-mark business, directly or indirectly, is forbidden as unprofessional conduct, and any person engaging in such solicitation, or associated with or employed by others who so solicit, shall be refused recognition to practice before the Patent Office or suspended or excluded from further practice.

The use of simple professional letterheads, calling cards, or office signs; simple announcements necessitated by opening an office, change of association, or change of address, distributed to clients and friends, and insertion of professional cards, listings in common form (not display) in a classified telephone or city directory, and listings and professional cards with biographical data in standard professional directories are not prohibited.

(This rule does not come into effect until Jan. 1, 1948, and until that date old trade-mark Rule 11 is still in force.)

4.5 **Signature and certificate of attorney.** Every paper filed by an attorney at law or other recognized person representing an applicant or party to a trade-mark proceeding in the Patent Office must be signed by such attorney or person, except papers which are required to be signed by the applicant or party (such as the application itself and affidavits required of applicants or registrants). When an applicant or party is represented by a firm such papers must carry the signature of an individual member of the firm in addition to the firm name. The signature of an attorney at law or other person to a paper filed by him, or the filing of any paper by him, constitutes a certificate by him that he has read the paper; that he is authorized to file it; that to the best of his knowledge, information, and belief it is well founded in law and fact; and that it is not interposed for delay.

4.6 **Suspension or exclusion from practice.** The Commissioner of Patents may, after notice and opportunity for a hearing, suspend or exclude, either generally or in any particular case, from further practice before the Patent Office any person, attorney, or agent shown to be incompetent or disreputable, or guilty of unethical or unprofessional conduct or gross misconduct, or who refuses to comply with the rules and regulations, or who shall, with intent to defraud in any manner, deceive, mislead, or threaten any applicant or prospective applicant or other person having immediate or prospective business before the Patent Office, by word, circular, letter, or in any other manner. The reasons for any such suspension or exclusion shall be duly recorded.

(See R. S. 487; 35 U.S.C. 11 for review of the Commissioner's action by the District Court of the United States for the District of Columbia.)

4.7 **Power of attorney or authorization.** Before any attorney at law or other recognized person will be allowed to take action in any case or proceeding, a written power of attorney or authorization must be filed in that particular case or proceeding.

A substitute or associate attorney may be appointed by an attorney only upon the written authorization of his principal; but a third attorney appointed by the second will not be recognized.

4.8 **Correspondence held with attorney.** When an attorney or other recognized person shall have filed his power of attorney or authorization, duly executed, the correspondence will be held with him. Double correspondence with an applicant

and his attorney, or with two attorneys, will not be undertaken. If more than one attorney be appointed, correspondence will be held with the one last appointed unless otherwise requested.

4.9 **Revocation of power of attorney.** A power of attorney or authorization may be revoked at any stage in the proceedings of a case upon notification to the Commissioner; and, when it is so revoked, the Office will communicate directly with the applicant or with such other attorney as he may appoint. An attorney or agent will be notified of the revocation of his power of attorney or authorization.

6. APPLICATION FOR REGISTRATION

6.1 **Parts of application.** A complete application for registration comprises:

(*a*) A written application (see Rules 7.1 to 8.8);

(*b*) A drawing of the mark (see Rules 9.1 to 9.5);

(*c*) Five specimens or facsimiles (see Rules 10.1 to 10.3);

(*d*) The required filing fee (see Rule 2.1 (*a*));

(*e*) A certified copy of the registration in the country of origin if the application is based on such foreign registration pursuant to section 44 (*e*) of the act (see Rule 7.9).

6.2 **Application must be complete to receive filing date.** An application will not be accepted and filed for examination unless all the required parts specified in Rule 6.1, complying with the rules and regulations relating thereto, are received, but minor informalities may be waived subject to subsequent correction. If the papers and parts are incomplete or so defective that they cannot be accepted as a complete application, the applicant will be notified and the papers and fee held six months for completion if possible, return to the applicant, or other disposition. If not completed in six months, a new application must thereafter be filed. The drawing, specimens, or fee of an unaccepted application may be applied to a later application.

6.3 **Serial number and filing date.** Complete applications will be numbered as received, and the applicant will be informed of the serial number and filing date of the application. The filing date of the application is the date on which the complete application is received in the Patent Office in acceptable form.

6.4 **Designation of representative by foreign applicant.** If the applicant is not domiciled in the United States, he must designate by a written document filed in the Patent Office the name and address of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark and to whom all official communications will be addressed unless the applicant is represented by an attorney or other recognized person. If this document does not accompany or form part of the application, it will be required and registration refused unless it is supplied.

6.5 **Papers not returnable.** After acceptance of the application the papers will not be returned for any purpose whatever. If the applicant has not preserved copies of the papers the Office will furnish them on the usual terms.

6.6 **Use of old drawing in new application.** In an application filed in place of an abandoned or rejected application, or in an application for reregistration (Rule 31.1), a new complete application is required, but the old drawing, if suitable, may be used. The application must be accompanied by a request for the transfer of the drawing, and by a permanent photographic copy, or an order for such copy, of the drawing to be placed in the original file. A drawing so transferred, or to be transferred, cannot be amended.

6.7 **Application confidential prior to publication.** No information respecting the filing of an application for the registration of a trade-mark, or the subject matter thereof will be given, prior to publication under Rule 15.1, without authority of the applicant, unless it shall, in the opinion of the Commissioner, be necessary to the proper conduct of business before the Patent Office. Decisions of the Commissioner in applications and proceedings relating thereto are published or available for inspection or publication.

7. THE WRITTEN APPLICATION

7.1 **Application must be in English.** The written application must be in the English language and plainly written on but one side of the paper. Legal size paper, typewritten double spaced, with at least a one and one-half inch margin on the left-hand side and top of the page, is deemed preferable.

7.2 **Application to be signed and sworn to by applicant.** The written application must be made to the Commissioner of Patents and must be signed and verified (sworn to) by the applicant or by a member of the firm or an officer of the corporation or association applying.

Re-executed papers may be required when the application has not been filed in the Patent Office within a reasonable time after the date of execution.

7.3 **Requirements for application—Statement.** The written application shall include a request for registration and shall specify:

(*a*) The name of the applicant;

(*b*) The citizenship of the applicant; if the applicant be a partnership, the names and citizenship of the general partners or, if the applicant be a corporation or association, the state or nation under the laws of which organized;

(*c*) The domicile and post office address of the applicant;

(*d*) That the applicant has adopted and is using the mark shown in the accompanying drawing;

(*e*) The particular description of goods on or in connection with which the mark is used;

(*f*) The class of merchandise according to the official classification (if the number and title of the class are not known to the applicant, they may be left blank, in which case they will be filled in by the Patent Office and applicant informed thereof);

(*g*) The date of applicant's first use of the mark as a trade-mark on or in connection with goods specified in the application;

(*h*) The date of applicant's first use of the mark as a trade-mark on or in connection with goods specified in the application in commerce which may lawfully be regulated by Congress, specifying the nature of such commerce;

(*i*) The mode or manner in which the mark is used on or in connection with the particular goods specified.

This part of the written application is called the statement.

7.4 **Requirements for application—Declaration.** The written application must also include averments to the effect that the applicant or other person making the verification believes himself or the firm, corporation, or association in whose behalf he makes the verification to be the owner of the mark sought to be registered; that the mark is in use in commerce which may lawfully be regulated by Congress, specifying the nature of such commerce; that no other person, firm, corporation, or association, to the best of his knowledge and belief, has the right to use such mark in commerce, either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive, that the drawing and description truly represent the mark sought to be registered; that the specimens or facsimiles show the mark as actually used in connection with the goods; and that the facts set forth in the statement are true.

This part of the written application is called the declaration.

7.5 **Description of mark.** A description of the mark, which must be acceptable to the Examiner of Trade-Marks, may be included in the statement, and must be included if required by the Examiner.

7.6 **Identification of prior registrations.** Prior registrations of the same or similar marks owned by the applicant should be identified in the written application.

7.7 **Power of attorney, domestic representative.** The power of attorney or authorization of agent (Rule 4.7) and the appointment of a domestic representative (Rule 6.4) may be included as a paragraph or paragraphs in the written application.

7.8 **Use by predecessor or by related companies.** If the first use, the date of which is required by paragraph (*g*) or (*h*) of Rule 7.3, was by a predecessor in title, or by a related company (sections 5 and 45 of the act), and such use inures to the benefit of the applicant, the date of such first use may be asserted with a statement that such first use was by the predecessor in title or by the related company as the case may be. The Office may require further details and additional proof showing that such use inures to the benefit of the applicant.

Where the mark sought to be registered is legitimately used by one or more related companies at the time of the filing of the application, the declaration (Rule 7.4) must recite exceptions to the averment of the exclusive right to use the mark, stating the nature of such related companies and, if practicable, the names and addresses.

7.9 **Omission of allegation of use by foreign applicants.** The allegation that the mark is in use in commerce which may lawfully be regulated by Congress, required by Rule 7.4, and the statements of the dates of the applicant's first use, required by Rule 7.3(*g*) and (*h*), may be omitted in the case of an application, filed pursuant to section 44(*e*) of the act, for registration of a mark duly registered in the country of origin of a foreign applicant, provided the application when filed is accompanied by a certified copy of the registration in the country of origin and said registration is then in full force and effect. A sworn translation of the registration, if not in the English language, may be required after the application is filed.

Such allegation and statment may also be omitted in the case of an application claiming the benefit of a prior foreign application in accordance with section 44(*d*) of the act, provided that the application states the date and country of the first foreign application and a certified copy of the foreign application and a sworn translation of the same, if not in the English language, are filed before the registration is granted, but the registration will not be granted until the mark has been registered in the country of origin of the applicant.

In such cases the description of goods or services shall not exceed the scope of that covered by the foreign registration or application.

8. THE WRITTEN APPLICATION (continued)

8.1 **Proof of distinctiveness under section 2 (*f*).** When registration is sought under section 2 (*f*) of the act and the claim of distinctiveness is based on substantially exclusive and c ontinuous use of the mark by the applicant for a period of five years preceding the filing of the application in commerce which may lawfully be regulated by Congress, the written application shall include in the declaration a statement to that effect; but proof of such exclusive and continuous use and further evidence showing that the mark has become distinctive may be required.

If the allegation of distinctiveness is not based on substantially exclusive use over a five-year period, as specified in the preceding paragraph, but is based on other facts and circumstances, proof of distinctiveness must be submitted separately and should accompany the application.

8.2 **Concurrent use.** In the case of an application claiming concurrent use, the applicant shall also specify in the statement any concurrent use by others, designating their names, addresses, and registrations or applications, if any, the goods in connection with which and the areas in which such concurrent use exists, the mode of such use, the periods of such use, and the goods, area, or mode of use for which the applicant desires registration; and the claim of exclusive use made in the declaration shall be made with the stated exceptions.

8.3 **Service mark.** In the case of an application for the registration of a service mark, the written application shall specify and contain all the elements required by the preceding rules for trade-marks, but shall be modified to relate to services instead of to goods wherever necessary.

8.4 **Collective mark.** In the case of an application for registration of a collective mark, the written application shall specify and contain all applicable elements required by the preceding rules for trade-marks, but shall, in addition, specify the class of persons entitled to use the mark, indicating their relationship to the owner of the mark, and the nature of the owner's control over the use of the mark.

8.5 **Certification mark.** In the case of an application for registration of a certification mark, the written application shall specify and contain all applicable elements required by the preceding rules for trade-marks. It shall, in addition, specify the manner in which and the conditions under which the certification mark is used; it shall allege that the applicant exercises legitimate control over the use of the mark and that he is not himself engaged in the production or marketing of the goods or services to which the mark is applied.

8.6 **Principal Register.** All applications will be treated as seeking registration on the Principal Register unless otherwise stated in the application. Service marks, collective marks, and certification marks, registrable in accordance with the applicable provisions of section 2 of the act, are registered on the Principal Register.

8.7 **Supplemental Register.** In the case of an application for registration on the Supplemental Register, the written application shall so indicate and shall specify that the mark has been in continuous use in commerce which may lawfully be regulated by Congress, specifying the nature of such commerce, by the applicant for the preceding year, if the application is based on such use. The showing required for waiver of the requirement for a full year's use must be separate from the written application.

8.8 **Applicant's name.** The signature to the application must be the correct name of the applicant, since the name will appear in the certificate of registration precisely as it is signed to the application. The name of the applicant, wherever it appears in the papers of the application, will be made to agree with the name as signed.

9. DRAWING

9.1 **Drawing required.** The drawing of the trade-mark shall be a substantially exact representation thereof as actually used on or in connection with the goods.

The drawing of a service mark shall be a substantially exact representation of the mark as used in the sale or advertising of the services. The drawing of a service mark may be dispensed with in the case of a mark not capable of representation by a drawing, but in any such case the written application must contain an adequate description.

In the case of an application for registration on the Supplemental Register, the drawing, when appropriate and necessary (section 23, third paragraph, of the act), may be the drawing of a package or configuration of goods.

9.2 **Requirements for drawings.**

(*a*) *Paper and ink.* The drawing must be made upon pure white paper of a thickness corresponding to two- or three-ply Bristol board. The surface of the paper must be calendered and smooth. India ink alone must be used for pen drawings to secure perfectly black solid lines. The use of white pigment to cover lines is not acceptable.

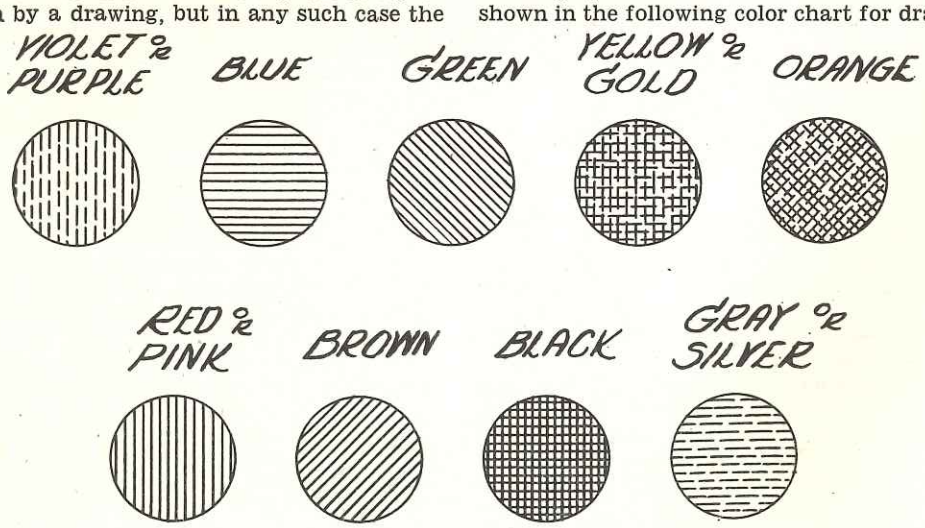
(*b*) *Size of sheets and margins.* The size of a sheet on which a drawing is made must be exactly 8 by 13 inches. Three-fourths of an inch from its edges, a single marginal line should be drawn, leaving the "sight" precisely 6½ by 11½ inches. All work must be included within this margin. One of the shorter sides of the sheet should be regarded as its top. When the view is longer than the width of the sheet, the sheet should be turned on its side with the top at the right.

(*c*) *Character of lines.* All drawings must be made with the pen or by a process which will give them satisfactory reproduction characteristics. Every line and letter, names included, must be black. This direction applies to all lines, however fine, and to shading. All lines must be clean, sharp, and solid, and they must not be too fine or crowded. Surface shading, when used, should be open.

(*d*) *Applicant's name.* The name of the applicant for registration must be written or printed within the marginal lines in the lower right-hand corner of the sheet, but in no instance should it encroach upon the drawing.

(*e*) *Extraneous matter.* An agent's or attorney's name, stamp, or address or other extraneous matter should not appear upon the face of a drawing, within or without the marginal line.

(*f*) *Linings for color.* Where color is a material feature of a mark as used, the color or colors employed should, if feasible, be illustrated in the drawing by means of the conventional linings as shown in the following color chart for draftsmen:



9.3 **Transmission of drawings.** Drawings transmitted to the Patent Office should be sent flat, protected by a sheet of heavy binder's board, or should be rolled for transmission in a suitable mailing tube to prevent mutilation. They should never be folded.

9.4 **Informal drawings.** A drawing not executed in conformity with the foregoing rules may be accepted for purpose of examination, but the drawing must be corrected or a new one furnished, as required, before the mark can be published or the application allowed. The necessary corrections will be made by the Patent Office upon applicant's request and at his expense. Substitute drawings will not be accepted unless they have been required by the Examiner or correction of the original drawing would require that the mark be substantially entirely redrawn.

9.5 **Patent Office may make drawings.** The Patent Office, at the request of applicants and at their expense, will make drawings if facilities permit.

10. SPECIMENS

10.1 **Specimens.** The five specimens of a trade-mark shall be specimens of the trade-mark as actually used on or in connection with the goods in commerce, and shall be duplicates of the actually used labels, tags, or containers, or the displays associated therewith or portions thereof, when made of suitable material and capable of being arranged flat and of a size not larger than the size of the drawing.

10.2 **Facsimiles.** When, from the mode of applying or affixing the trade-mark to the goods, or from the manner of using the mark on the goods, or from the nature of the mark, specimens as above stated cannot be furnished, five copies of a suitable photograph or other acceptable reproduction, not larger than the size specified for the drawing and clearly and legibly showing the mark and all matter used in connection therewith, shall be furnished.

10.3 **Specimens or facsimiles in the case of a service mark.** In the case of a service mark a specimen or facsimile as specified in Rules 10.1 and 10.2, of the mark as used in the sale or advertising of the services shall be furnished unless impossible from the nature of the mark or the manner in which it is used, in which event, some other representation acceptable to the Commissioner must be submitted.

12. EXAMINATION OF APPLICATION AND ACTION BY APPLICANTS

12.1 **Action by Examiner.** Applications for registration will be examined or caused to be examined by the Examiner of Trade-Marks, and, if the applicant is found not entitled to registration for any reason, he will be so notified and advised of the reasons therefor and of any formal requirements or objections and will be given such information and references as may be helpful in the further prosecution of the application.

12.2 **Period for response.** The applicant has six months from the date of mailing of any action by the Patent Office to respond thereto. Such response may be made with or without amendment and must include such proper action by the applicant as the nature of the action and the condition of the case may require.

12.3 **Re-examinations.** After response by the applicant, the application will be re-examined or reconsidered, and if the registration is again refused or formal requirements insisted upon, but not stated to be final, the applicant may respond again.

12.4 **Final action.** On the first or any subsequent re-examination or reconsideration the refusal of the registration or the insistence upon a requirement may be stated to be final, whereupon applicant's response is limited to an appeal or to a compliance with any requirement made.

12.5 **Abandonment.** If an applicant fails to respond, or to respond completely, within six months after the date an action is mailed, the application shall be deemed to have been abandoned.

12.6 **Revival of abandoned applications.** An application abandoned for failure to respond may be revived as a pending application if it is shown to the satisfaction of the Commissioner that the delay was unavoidable. A petition to revive an abandoned application must be accompanied by a verified showing of the causes of the delay, and by the proposed response, unless the same has been previously filed.

12.7 **Suspension of action by Patent Office.** Action by the Patent Office may be suspended upon request of the applicant for good and sufficient cause and for a reasonable time specified. Only one suspension will be granted by the Examiner, and any further suspension must be approved by the Commissioner.

12.8 **Express abandonment.** An application may be expressly abandoned by filing in the Patent Office a written declaration of abandonment signed by the applicant himself or, if assigned, by the assignee.

13. AMENDMENT OF APPLICATION

13.1 **Amendments to statement.** The statement may be amended to correct informalities, or to avoid objections made by the Patent Office, or for other reasons arising in the course of examination. No amendments to the dates of use will be permitted unless such changes are supported by affidavit by the applicant and by such showing as may be required by the Examiner.

Additions to the description of goods or services will not be permitted unless the mark was in actual use on all of the goods or services proposed to be added by the amendment at the time the application was filed and unless the amendment is accompanied by additional specimens (or facsimiles) and by a supplemental affidavit by the applicant in support thereof, alleging said facts.

Amendment of the declaration will not be permitted. If that filed with the application be faulty or defective, a substitute declaration must be filed.

13.2 **Amendments to description or drawing.** Amendments to the description or drawing of the mark may be permitted only if warranted by the specimens (or facsimiles) as originally filed, but may not be made if the nature of the mark is changed thereby.

13.3 **Amendment to recite concurrent use.** An application may be amended in the Examiner's discretion so as to be treated as an application for a concurrent registration, provided the ap-

plication as amended satisfies the requirements of Rule 8.2.

13.4 **Form of amendment.** In every amendment the exact word or words to be stricken out or inserted in the statement must be specified and the precise point indicated where the deletion or insertion is to be made. Erasures, additions, insertions, or mutilations of the papers and records must not be made by the applicant or attorney.

When an amendatory clause is amended, it must be wholly rewritten so that no interlineation or erasure will appear in the clause, as finally amended, when the application is passed to registration. If the number or nature of the amendments shall render it otherwise difficult to consider the case or to arrange the papers for printing or copying, or when otherwise desired to clarify the record, the Examiner may require the entire statement to be rewritten.

13.5 **Amendment to change application to different register.** An application for registration on the Principal Register may be changed to an application for registration on the Supplemental Register and vice versa by amending the application to comply with the rules relating to the requirements for registration on the appropriate register, as the case may be. Unless the written application as originally filed was sufficient for registration on the register to which converted, the date of filing such amendment will be considered the filing date of the application so converted. Only one such conversion will be permitted after an action by the Examiner.

14. FEDERAL LABEL APPROVAL

14.1 **Federal label approval required in certain cases.** Whenever an application is filed for the registration of a trade-mark which is either a part of or associated with a label for a product which, under the provisions of an act of Congress, cannot be lawfully sold in the commerce specified in the written application without prior approval of the label by a designated Government agency, a copy of such label and its certification must be made of record in the application before allowance in cases specified by this rule.

Types of labels for which prior approval must be secured and copies of which must be filed as indicated above are set forth in the following schedule:

Labels for meat products (Class 46) which are subject to Federal inspection, must be approved by the Meat Inspection Division, Bureau of Animal Industry, Department of Agriculture.

Labels for wines (Class 47) and for distilled alcoholic liquors (Class 49) must be approved by the Federal Alcohol Administration.

15. PUBLICATION AND ALLOWANCE

15.1 **Publication in Official Gazette.** If, on examination or re-examination of an application for registration on the Principal Register, it appears that the applicant is entitled to have his mark registered, the mark will be published in the Official Gazette for opposition.

15.2 **Allowance of application.** If no notice of opposition is filed within the time permitted, Rules 20.1 and 20.2, and no interference is declared, the applicant will be duly notified of the allowance of his application, and a certificate of registration may be issued as provided in Rule 29.1.

Certificates are normally issued on the fourth Tuesday after the Thursday following the date of the notice of allowance.

15.3 **Marks on Supplemental Register published only upon registration.** In the case of an application for registration on the Supplemental Register the mark will not be published for opposition but the applicant will be notified of the allowance of his application if it appears, after examination or re-examination, that he is entitled to have the mark registered, and a certificate of registration may be issued as provided in Rule 29.1. The mark will be published in the Official Gazette when registered.

15.4 **Jurisdiction over published or allowed applications.** After publication or allowance the Examiner may exercise jurisdiction over an application by special authority from the Commissioner.

Amendments may be made after the allowance of an application if the certificate has not been printed, on the recommendation of the Examiner approved by the Commissioner, without withdrawing the allowance.

16. CLASSIFICATION

16.1 **Classification of goods and services.** There is established, for convenience of administration, the following classification of goods and services. Such classification shall not limit or extend the applicant's rights.

Class	Title
1	Raw or partly prepared materials
2	Receptacles
3	Baggage, animal equipments, portfolios, and pocketbooks
4	Abrasive, detergent, and polishing materials
5	Adhesives
6	Chemicals, medicines, and pharmaceutical preparations
7	Cordage
8	Smokers' articles, not including tobacco products
9	Explosives, firearms, equipments, and projectiles
10	Fertilizers
11	Inks and inking materials
12	Construction materials
13	Hardware and plumbing and steam-fitting supplies
14	Metals and metal castings and forgings
15	Oils and greases
16	Paints and painters' materials
17	Tobacco products
19	Vehicles
20	Linoleum and oiled cloth
21	Electrical apparatus, machines, and supplies
22	Games, toys, and sporting goods
23	Cutlery, machinery, and tools, and parts thereof
24	Laundry appliances and machines
25	Locks and safes
26	Measuring and scientific appliances
27	Horological instruments
28	Jewelry and precious-metal ware
29	Brooms, brushes, and dusters
30	Crockery, earthenware, and porcelain

Class	Title
31	Filters and refrigerators
32	Furniture and upholstery
33	Glassware
34	Heating, lighting, and ventilating apparatus
35	Belting, hose, machinery packing, and non-metallic tires
36	Musical instruments and supplies
37	Paper and stationery
38	Prints and publications
39	Clothing
40	Fancy goods, furnishings, and notions
41	Canes, parasols, and umbrellas
42	Knitted, netted and textile fabrics, and substitutes therefor
43	Thread and yarn
44	Dental, medical, and surgical appliances
45	Soft drinks and carbonated waters
46	Foods and ingredients of foods
47	Wines
48	Malt beverages and liquors
49	Distilled alcoholic liquors
50	Goods not otherwise classified
55	Services (temporary)

16.2 **Plurality of goods or services comprised in single class may be covered by single application.** A mark may be registered on a single application for a plurality of goods, or for a plurality of services, comprised in a single class, provided the particular description of each of the goods or services be stated and the mark has actually been used on or in connection with all of the goods, or in connection with all of the services specified.

16.3 **Original application must be limited to goods or services comprised in a single class.** When a single application is filed to register a mark for both goods and services or for goods or services in a plurality of different classes, registration will be refused, and the applicant will be required to restrict the application to goods or services comprised in a single class.

16.4 **Applications may be combined.** When several applications have been filed by the same applicant for registration on the same register of the identical mark on goods in different classes, or services in different classes, and each of the applications has been allowed, a single certificate based on such several applications may be issued. For the purpose of issuing such single certificate, a copy of the written applications, combined as a single application eliminating unnecessary repetition, must be filed in one of such applications.

The issuance of any original certificate may be suspended upon request of the applicant, for a period not exceeding six months to permit such consolidation.

18. CONTESTED OR INTER PARTES PROCEEDINGS

18.1 **Contested or inter partes proceedings.** Contested or inter partes cases or proceedings comprise (*a*) interferences between pending applications or between registrations and pending applications, which are instituted by the Examiner of Trade-Marks, (*b*) opposition proceedings, which are instituted on the filing of a notice of opposition against a mark published for opposition, (*c*) cancellation proceedings, which are instituted on the filing of a petition to cancel a registration, and (*d*) concurrent use proceedings which are instituted upon giving notice to the users named in an application to register as concurrent user.

19. INTERFERENCES

19.1 **Interferences.** Whenever application is made for registration on the Principal Register of a mark which so resembles a mark previously registered by another, or for the registration of which another has previously made application, as to be likely, when applied to the goods or when used in connection with the services of the applicant, to cause confusion or mistake or to deceive purchasers, an interference may be declared to exist. An interference will not be declared between two applications or an application and a registration unless the junior party alleges in his application a date of use prior to the filing date of the senior party. No interference shall be declared between an application and the registration of a mark the right to the use of which has become incontestable, nor with respect to registrations or applications to register on the Supplemental Register.

19.2 **Preliminary to interference.** Before the declaration of interference, all preliminary questions must have been settled by the Examiner of Trade-Marks and the interfering marks which are to form the subject matter of the controversy must have been decided to be registrable, and at least one of them must have been published in the Official Gazette.

The Examiner of Trade-Marks may require an applicant to put his application in condition for publication or allowance, within a time specified, not less than thirty days, in order that an interference may be declared. If any such applicant fails to put his application in condition for publication or allowance within the time specified, the declaration of interference will not necessarily be delayed, but after final judgment the application of such applicant will be held for revision or restriction, subject to interference with other applications or registrations.

Whenever it shall be found that two or more parties whose interests are in conflict are represented by the same attorney, the Examiner of Trade-Marks shall notify each of said parties and also the attorney of this fact.

19.3 **Declaration of interference.** An interference is declared and instituted by the mailing of notices of interference to each of the parties by the Examiner of Interferences, which notices shall have been prepared by the Examiner of Trade-Marks. The notices shall be sent to all the parties, in care of their attorneys, if they have an attorney of record, and if one of the parties is a registrant, a notice shall also be sent to him or his assignee of record. The notice to each party shall give the name and address of the adverse party and of his attorney, if any, together with the serial number and date of filing and publication, if published, of each of the applications or registrations involved.

19.4 **Motions to dissolve interference.** Motions to dissolve an interference upon the ground that no interference in fact exists, or that there has been such irregularity in declaring the same as

will preclude a proper determination of the right of registration, or that an applicant's mark is not registrable, and all other motions of a similar character, shall contain a full statement of the grounds relied upon and shall be made not later than forty days after the notices of interference have been mailed. Such motions, if in proper form, will be transmitted to the Examiner of Trade-Marks for determination, and the parties will be so notified. If the motion is not in proper form or if it is not brought within the time specified and no satisfactory reason is given for the delay, it will not be considered, and the parties will be so notified. Transmitting such a motion for determination will act as a stay of proceedings pending the determination of the motion.

19.5 **Decision on motion to dissolve.** The decision of the Examiner of Trade-Marks upon a motion for dissolution will be binding upon the Examiner of Interferences unless reversed or modified on appeal. Appeal may be taken to the Commissioner from a decision granting a motion to dissolve. No appeal may be had from a decision denying a motion to dissolve, but the question may be reviewed by the Commissioner on appeal from the final decision of the Examiner of Interferences.

19.6 **Burden of proof.** The party whose application or registration involved in the interference has the latest filing date is the junior party and will be regarded as having the burden of proof.

Motions to shift the burden of proof shall be made within forty days from the mailing of the notices of interference and will be determined by the Examiner of Interferences. No appeal from the decision on such motion will be entertained, but the matter may be reviewed by the commissioner on appeal from the final decision of the Examiner of Interferences.

19.7 **Motion to add.** An applicant or registrant involved in an interference may, not more than forty days after the notices of interference have been mailed, bring a motion to add to the interference any other application or registration which he may own. The procedure affecting such motion will be the same as that hereinabove set forth on motions to dissolve.

19.8 **Adding party to interference.** If, during the pendency of an interference, another case appears involving substantially the same registrable subject matter, the Examiner of Trade-Marks may request the suspension of the interference for the purpose of adding said case. Such suspension will be granted as a matter of course by the Examiner of Interferences if no testimony has been taken. If, however, any testimony has been taken, a notice for the proposed new party disclosing the issue in interference and the names and addresses of the interferants and of their attorneys, and notices for the interferants disclosing the name and address of the said party and his attorney, shall be prepared by the Examiner of Trade-Marks and forwarded to the Examiner of Interferences, who shall make such inquiries as are deemed necessary to determine the question of admissibility of the new party. If the Examiner of Interferences be of the opinion that the interference should be suspended and a new party added, he shall prescribe the terms for such suspension.

20. OPPOSITION

20.1 **Time for filing notice of opposition.** Any person who believes that he would be damaged by the registration of a mark upon the Principal Register may, upon payment of the required fee, oppose the same by filing a verified notice of opposition in the Patent Office within thirty days after the publication (Rule 15.1) of the mark sought to be registered.

20.2 **Extension of time.** A request to extend the time for filing a notice of opposition must be received before the expiration of forty days from the date of publication. Any such request must show good cause for the extension and specify the period of extension desired.

20.3 **Notice filed by attorney.** An unverified notice of opposition may be filed by a duly authorized attorney, but such opposition will be null and void unless verified by the opposer within thirty days after such filing, or within such further time after such filing as may be fixed by the Commissioner upon request made before the expiration of said thirty days.

20.4 **Contents of notice of opposition.** The notice of opposition must allege facts tending to show why the opposer would be damaged by the registration of the opposed mark and state the specific grounds for opposition. A duplicate copy of the notice of opposition and two specimens (or facsimiles) of the mark as actually used by the opposer, if there be such, shall be filed.

20.5 **Institution of opposition.** When a notice of opposition is filed, the Examiner of Trade-Marks shall inform the party filing the same of the receipt thereof and, if regularly filed, shall transmit it to the Examiner of Interferences.

The Examiner of Interferences shall prepare a notice disclosing the name and address of the opposer, and of his attorney, if he has such, and designate a time, not less than thirty days from the date of such notice, within which answer must be filed. Copies of this notice shall be forwarded to the parties in care of their attorneys, if they have attorneys of record. The duplicate copy of the notice of opposition and one of the specimens (or facsimiles), if there be such, shall be forwarded with the notice to the party against whom the opposition is filed.

21. CANCELLATION

21.1 **Time for filing petition for cancellation.** Any person who believes that he is or will be damaged by a registration may, upon payment of the required fee, apply to the Commissioner to cancel said registration. Such petition may be made at any time in the case of registrations on the Supplemental Register or under the act of 1920, or registrations under the act of 1881 or the act of 1905 which have not been republished under section 12(*c*) of the act (Rule 30.1), and in cases involving the grounds specified in section 14(*c*) and (*d*) of the act. In all other cases such petition must be made within five years from the date of registration of the mark under the act of 1946 or from the date of republication under section 12(*c*) of the act.

21.2 **Petition for cancellation.** The petition to cancel must allege facts tending to show why the

petitioner believes he is or will be damaged by the registration, state the specific grounds for cancellation, and indicate the respondent party to whom notice shall be sent. The petition must be verified by the petitioner. A duplicate copy of the petition, an abstract of title of the mark sought to be cancelled or an order for a title report for Office use, and two specimens (or facsimiles) of the mark actually used by the petitioner, if there be such, shall be filed with the petition.

A petition to cancel filed by the Federal Trade Commission under section 14(*c*) or section 14(*d*) of the act need not show or allege that the petitioner is or will be damaged, and a fee is not required for filing such petition.

21.3 **Notice of filing of petition.** When a petition for cancellation is filed, it shall be transmitted to the Examiner of Interferences, who shall make examination thereof to determine if it is formally correct. If he be of the opinion that the petition is defective as to form, he shall so advise the party filing the same and set a time for correcting the informality.

When the petition is correct as to form, the Examiner of Interferences shall prepare a notice disclosing the name and address of the petitioner and of his attorney, if he has such, and designate a time, not less than thirty days from the date of the notice, within which an answer must be filed. Copies of this notice shall be forwarded to the registrant as well as to his attorney if there be such, and to the petitioner. The duplicate copy of the petition for cancellation and one of the specimens (or facsimiles), if there be such, shall be forwarded with the notice to the registrant whose registration is sought to be cancelled.

22. APPLICATION FOR REGISTRATION AS CONCURRENT USER

22.1 **Application to register as concurrent user.** An application for registration as a lawful concurrent user will be examined in the same manner as other applications for registration. When it is determined that the mark is ready for publication or allowance, except for questions relating to concurrent registration, the applicant may be required to furnish as many copies of his written application, specimens and drawing, as may be necessary. The Examiner of Trade-Marks shall prepare notices for the applicant and for each applicant, registrant, or user specified in the application for registration as a concurrent user. Such notices for the specified parties shall give the name and address of the applicant and of his attorney, if any, together with the serial number and filing date of the application.

The notices shall be sent by the Examiner of Interferences to each of the parties, in care of their attorneys, if they have attorneys of record, and if one of the parties is a registrant, a notice shall also be sent to him or his assignee of record. A copy of the application shall be forwarded with the notices to the parties specified in the application. An answer to the notice is not required in the case of an applicant or registrant whose application or registration is specified in the application to register as concurrent user but a statement may be filed if desired; an answer is required in the case of other parties specified in the application to register as concurrent user and a time, not less than thirty days from the date of the notice, within which such answer must be filed will be designated in the notice.

Subsequent proceedings shall follow the practice in interferences, the applicant for concurrent registration, or the one having the latest filing date if there be more than one such applicant, having the burden of proof in the first instance.

23. PROCEDURE IN CONTESTED OR INTER PARTES PROCEEDINGS

23.1 **Federal Rules of Civil Procedure.** Except as otherwise provided, procedure and practice in contested or inter partes proceedings shall be governed by the Rules of Civil Procedure for the District Courts of the United States wherever considered applicable and appropriate.

Any junior party in an interference, the opposer in an opposition proceeding, the petitioner in a cancellation proceeding, and the applicant to register as a concurrent user, shall be deemed to be in the position of plaintiff, and the other parties to such proceedings in the position of defendants with respect thereto. The notice of opposition and the petition to cancel, and the answers thereto, correspond to complaint and answer; there are no equivalent pleadings in interferences and in concurrent use proceedings when no answer is required, the issues in such cases being determined by the respective applications or registrations involved. The taking of testimony and the final hearing correspond to trial, and the assignment of times for taking testimony and for final hearing to setting a case for trial.

23.2 **Undelivered Office notices.** When the notices sent by the Patent Office to any registrant are returned to the Office undelivered, or when one of the parties resides abroad and his representative in the United States is unknown, additional notice may be given by publication in the Official Gazette for such period of time as the Commissioner may direct.

23.3 **Service of papers.** Every paper filed in the Patent Office in contested cases, including appeals, must be served upon the other parties as provided by Patent Rule 154(*b*) except the notices of interference (Rule 19.3), the notice of opposition (Rule 20.5), the petition for cancellation (Rule 21.3), the notices of a concurrent use proceeding (Rule 22.1), and the copies of the testimony (Rule 23.6), which are mailed by the Patent Office. Proof of such service must be made before the paper will be considered by the Office. A statement signed by the attorney, attached to or appearing on the original paper, when filed clearly stating the time and manner in which service was made will be accepted as prima facie proof of service.

23.4 **Assignment of times for taking testimony and of date of final hearing.** Times will be assigned for the taking of testimony in behalf of each of the parties, and no testimony shall be taken except during the times assigned. If there be more than two parties to an interference, the times for taking testimony will be so arranged that each shall have an opportunity to prove his case against prior parties, to rebut their evidence, and to meet the evidence of junior parties.

The times will ordinarily be assigned in the notices sent by the Patent Office in interferences and in concurrent use proceedings, and in a notice sent after the answers have been filed in cases of opposition and cancellation. The time for final hearing will be set in the same notices. If either party desires an extension of the time assigned to him for taking testimony he may apply therefor as provided in Patent Rule 154(*d*).

23.5 **Testimony in contested or inter partes cases.** Testimony in contested or inter partes proceedings shall be taken and filed in accordance with the provisions of Patent Rules 154 to 161, inclusive, and these rules shall apply to trade-mark cases.

23.6 **Copies of testimony.** In addition to the original transcripts of the testimony, three or more copies of the record of each party must be filed, two for the use of the Patent Office and one for each of the opposing parties. These records may be submitted either in printed or typewritten form. They must include the testimony presented by the party filing the same, and shall be certified to as being true copies. Each record must contain an index of the names of the witnesses, giving the pages where their examination and cross-examination begin, and an index of the pages where exhibits are offered in evidence and of the pages where copies of papers and documents introduced as exhibits are shown when such exhibits are copied in the record; the names of the witnesses must appear at the top of the pages over their testimony, and the pages must be consecutively numbered.

The copies of the record for the party in the position of plaintiff must be filed not less than seventy days before the day for final hearing and in the case of parties in the position of defendants not less than fifty days.

When the copies of the record are submitted in printed form, they shall be printed in 11-point type and adequately leaded; the paper must be opaque and unglazed; the size of the page shall be 7⅝ by 10¼ inches; and the size of the printed matter shall be 4⅙ by 7⅙ inches. Twenty-five additional copies for the United States Court of Customs and Patent Appeals, should appeal be taken, may also be filed; if no such appeal be taken, the twenty-five copies will be returned to the party filing them.

When the copies of the record are submitted in typewritten form, they must be clearly legible copies on opaque, unglazed, durable paper 8½ by 11 inches in size. The typing shall be on one side of the paper, in not smaller than pica type; and double-spaced with a margin of 1½ inches on the left-hand side of the page. The sheets shall be bound at their left edges in a volume or volumes of convenient size provided with covers. Multigraphed or otherwise reproduced copies conforming to the same standards specified for typewritten copies will be accepted as typewritten.

The testimony of any party failing to supply copies of his record as specified may be refused consideration.

23.7 **Allegations in application not evidence on behalf of applicant.** The allegation of dates of use in the application for registration of the applicant or registrant cannot be used as evidence in behalf of the party making the same.

23.8 **Motions.** Motions shall be made in writing and shall contain a full statement of the grounds therefor. Oral hearings will not be held on motions except on order of the Examiner having jurisdiction. Briefs in support of or in opposition to motions shall be filed on dates set by the Examiner of Interferences and, if not so filed, consideration thereof may be refused.

Petitions for reconsideration or modification of the decision must be filed within twenty days after the decision or before the time for appeal expires.

Appeal must be taken, in the case of such decisions as are appealable, within the time limit set in the decision, or within twenty days if no time limit is set.

24. PROCEDURE IN CONTESTED OR INTER PARTES PROCEEDINGS (continued)

24.1 **Briefs at final hearing.** Briefs at final hearing shall be submitted in printed form, except that where not in excess of thirty typewritten pages, and in any other case where satisfactory reason therefor is shown, they may be submitted in typewritten form. If submitted in printed form, they shall be the same in size and the same as to page and print as is specified for printed copies of testimony. Typewritten briefs shall conform to the requirements for typewritten copies of testimony, except that legal size paper may be used and the binding and covers specified are not required. The brief of a party in the position of plaintiff shall be filed not less than forty days, and that of a party in the position of a defendant not less than twenty days, prior to the hearing. Reply briefs, if filed, shall be due not less than ten days before the hearing.

24.2 **Final hearing.** Final hearings will be had by the Examiner of Interferences at the time stated in the notice. If either party in a contested case appear at the proper time, he will be heard. If the Examiner of Interferences is prevented from hearing the case at the time specified for the hearing, a new assignment will be made, or the case will be continued from day to day until heard. Unless otherwise permitted, oral arguments will be limited to one-half hour for each party. Petitions for rehearings or modifications of the decision must be filed before the time for appeal expires.

Hearings may be advanced or adjourned, as far as is convenient and proper, to meet the wishes of the parties and their attorneys.

24.3 **New matter suggested by Examiner of Trade-Marks.** If, during the pendency of a contested or inter partes case, facts appear which in the opinion of the Examiner of Trade-Marks render the mark of any applicant involved unregistrable, the attention of the Examiner of Interferences shall be called thereto. The Examiner of Interferences may suspend the proceeding and refer the case to the Examiner of Trade-Marks for his determination of the question of registrability, and the proceeding shall be dissolved or continued in accordance with such determination. The consideration of such facts by the Examiner of Trade-Marks shall be inter partes.

24.4 **Failure to take testimony.** Upon the filing of an affidavit by any party in the position

of a defendant, that the time for taking testimony on behalf of any party in the position of plaintiff has expired and that no testimony has been taken by him and no other evidence offered, an order may be entered that such party show cause within a time set therein, not less than ten days, why judgment should not be rendered against him, and in the absence of a showing of good and sufficient cause judgment may be rendered as by default.

24.5 **Amendment of application or registration during proceedings.** An application involved in a contested proceeding may not be amended, nor may a registration be amended or disclaimed in part, except upon the written consent of the other party or parties and the approval of the Examiner of Interferences, or except upon motion duly brought and considered.

24.6 **Surrender or cancellation of registration.** If a registrant involved in a contested proceeding applies to surrender or cancel his registration, under section 7(*d*) of the act, and such action is permitted, the proceeding may be terminated or continued on such terms as may be appropriate.

24.7 **Abandonment of application, abandonment or disclaimer in whole of mark, concession of priority.** If an applicant involved in a contested proceeding files a written abandonment of the application, or abandonment of the mark, or if a registrant applies to disclaim the mark in whole under section 7(*d*) of the act and such disclaimer is permitted, or if a party to an interference files a written concession of priority, judgment may be entered against said party; the proceeding will not be dismissed or dissolved at the request of said party unless with the consent of the other parties.

26. APPEALS

26.1 **Ex parte appeals to the Commissioner from the Examiner of Trade-Marks.** Every applicant for the registration of a mark may, upon final refusal by the Examiner of Trade-Marks, appeal to the Commissioner in person upon payment of the prescribed fee. A second refusal on the same grounds may be considered as final by the applicant for purpose of appeal. Appeal may also be taken to the Commissioner from the refusal by the Examiner of Trade-Marks to accept an affidavit filed under section 8 of the act or to renew a registration.

26.2 **Time and manner of ex parte appeals.** Such appeal must be taken within six months from the date of the action appealed from and must be accompanied by a statement of the reasons therefor. The Examiner shall, within thirty days therefrom, furnish the Commissioner with a written statement of the grounds of his decision, supplying a copy to the applicant. The date for hearing will be fixed by the Commissioner in each case and the brief of the appellant shall be due on or before the day of the hearing. Cases which have been heard and decided by the Commissioner will not be reopened except by his order.

26.3 **Appeal to the Commissioner from decision of Examiner of Interferences.** Any party to an interference, opposition, cancellation, or a concurrent use proceeding may appeal, stating the reasons therefor, from the final decision of the Examiner of Interferences to the Commissioner in person within the time limit, not less than thirty days, prescribed in the decision, or, if no time limit is prescribed, within thirty days, upon payment of the prescribed fee. The date for hearing will be fixed by the Commissioner in each case. Appellants shall file briefs not less than forty days before the hearing, and appellees shall file briefs not less than twenty days before the hearing; reply briefs, if filed, shall be due not less than ten days before the hearing. Briefs and hearings on appeal shall be subject to Rules 24.1 and 24.2 insofar as applicable.

26.4 **Appeal to court.** Any applicant for registration, any registrant who has filed an affidavit under section 8 of the act, or any party to an inter partes proceeding, who is dissatisfied with the decision of the Commissioner, may appeal to the United States Court of Customs and Patent Appeals or may proceed under section 4915, Revised Statutes (U. S. Code, title 35, sec. 63), as in the case of applicants for patents, under the same conditions, rules and procedure as are applicable in the case of patent appeals or proceedings.

(See Patent Rules 148 to 150 and rules of the United States Court of Customs and Patent Appeals.)

27. PETITION TO THE COMMISSIONER

27.1 **Petition to the Commissioner.** Petition may be filed with the Commissioner from any repeated action or requirement of the Examiner of Trade-Marks which is not subject to appeal and in other appropriate circumstances. Such petition, and any other petition which may be filed, must contain a statement of the facts involved and the point or points to be reviewed. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition. The Examiner may be directed by the Commissioner to furnish a written statement setting forth the reasons for his decision upon the matters averred in the petition, supplying a copy thereof to the petitioner. Oral hearing will be granted only in the discretion of the Commissioner. No fee is required for such a petition. The mere filing of a petition will not stay the period of six months for replying to an Examiner's action as provided in Rule 12.2 nor act as a stay of other proceedings.

29. CERTIFICATE

29.1 **Certificate.** When the requirements of the law and of the rules have been complied with, and the Patent Office has adjudged a mark registrable, a certificate will be issued to the effect that the applicant has complied with the law and that he is entitled to registration of his mark on the Principal Register or on the Supplemental Register as the case may be. The certificate will state the date on which the application for registration was filed in the Patent Office, the act under which the mark is registered, the date of issue and the number of the certificate. Attached to the certificate and forming a part thereof will be a copy of the drawing of the mark and a printed copy of the written statement and declaration. A notice of the affidavit requirement

of section 8(*a*) of the act (Rule 32.1) will be attached to the certificate.

Certificates are numbered in consecutive order, those issued under the acts of 1905 and 1920 continuing the series of numbering heretofore employed; those issued under the act of 1946 begin with number 500,001.

30. REPUBLICATION OF MARKS REGISTERED UNDER 1905 ACT

30.1 **Republication requirements.** A registrant of a mark registered under the provisions of the acts of 1881 or 1905 may, at any time prior to the expiration of the period for which the registration was issued or renewed, upon the payment of the prescribed fee, file an affidavit setting forth those goods stated in the registration on which said mark is in use in commerce which may lawfully be regulated by Congress, specifying the nature of such commerce, and stating that the registrant claims the benefits of the Trade-Mark Act of 1946. An abstract of title or an order for a title report for Patent Office use shall accompany the affidavit.

Such marks may, in lieu of republication under this rule, be reregistered in accordance with Rule 31.1 at the option of the registrant.

30.2 **Republication in Official Gazette.** A notice of the claim of benefits under the act of 1946 and a reproduction of the mark will then be published in the Official Gazette as soon as practicable. The republished mark will retain its original registration number.

30.3 **Notice of republication.** A notice of such republication of the mark and of the requirement for the affidavit specified in section 8(*b*) of the act (Rule 32.1) will be sent to the registrant.

30.4 **Not subject to opposition; subject to cancellation.** The republished mark is not subject to opposition on such publication in the Official Gazette but is subject to petitions to cancel as specified in Rule 21.1 and to cancellation for failure to file the affidavit specified in Rule 32.1.

31. REREGISTRATION OF MARKS REGISTERED UNDER PRIOR ACTS

31.1 **Reregistration of marks registered under acts of 1881, 1905 and 1920.** Trade-marks registered under the act of 1881, the act of 1905 or the act of 1920 may be reregistered under the act of 1946, either on the Principal Register, if eligible, or on the Supplemental Register, but a new complete application for registration must be filed complying with the rules relating thereto, and such application will be subject to examination and other proceedings in the same manner as other applications filed under the act of 1946.

See Rule 6.6 for use of old drawing.

32. CANCELLATION FOR FAILURE TO FILE AFFIDAVIT DURING SIXTH YEAR

32.1 **Cancellation for failure to file affidavit during sixth year.** Any registration under the provisions of the act of 1946 and any registration republished under the provisions of section 12(*c*) of the act (Rule 30.1) shall be cancelled at the end of six years following the date of registration or the date of such republication, unless within one year next preceding the expiration of such six years the registrant shall file in the Patent Office an affidavit showing that said mark is still in use or showing that its nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark.

32.2 **Requirements for affidavit.** The affidavit required by Rule 32.1 must:

(*a*) Be executed by the registrant after expiration of the five-year period;

(*b*) Identify the certificate of registration by the certificate number and date of registration;

(*c*) Recite sufficient facts to show that the mark described in the registration is still in use, specifying the nature of such use, or recite sufficient facts to show that its nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark; and

(*d*) Be accompanied by an abstract of title or an order for a title report for Office use.

32.3 **Acknowledgment of receipt of affidavit.** The registrant will be notified by the Examiner of Trade-Marks of the receipt of the affidavit and, if satisfactory, of its acceptance.

32.4 **Reconsideration of affidavit.** If the affidavit is insufficient, the registrant will be notified of the reasons by the Examiner. Reconsideration of such refusal may be requested within six months from the date of the mailing of the notice. The request for reconsideration must state the reasons therefor; a supplemental or substitute affidavit required by sec. 12(*c*) of the act cannot be considered unless it is received before the expiration of six years from the date of the registration, or from the date of republication.

See Rules 26.1, 26.2 and 26.4 for appeal.

32.5 **Time of cancellation.** If no affidavit is filed, the registration will be cancelled forthwith by the Commissioner after the end of the sixth year, and a notice of the cancellation will be sent to the registrant. If the affidavit is filed but is refused, cancellation of the registration will be withheld pending further proceedings.

33. AFFIDAVIT FOR INCONTESTABILITY

33.1 **Affidavit for incontestability.** The affidavit required by section 15 of the act for acquiring incontestability for a mark registered on the Principal Register or a mark registered under the act of 1881 or 1905 and republished under section 12(*c*) of the act (Rule 30.1) must

(*a*) Be signed by the registrant;

(*b*) Identify the certificate of registration by the certificate number and date of registration;

(*c*) Recite the goods or services stated in the registration on or in connection with which the mark has been in continuous use for a period of five years subsequent to the date of registration or date of republication under section 12(*c*) of the act, in commerce which may lawfully be regulated by Congress and is still in use in commerce, specifying the nature of such commerce;

(*d*) Specify that there has been no final decision adverse to registrant's claim of ownership of such mark for such goods or services, or to registrant's right to register the same or to keep the same on the register;

(*e*) Specify that there is no proceeding involving said rights pending in the Patent Office or in a court and not finally disposed of;

(*f*) Be filed within one year after the expiration of any such five year period.

The registrant will be notified of the receipt of the affidavit.

33.2 **Combined with other affidavits.** The affidavit filed under section 15 of the act for the purpose of acquiring incontestability may also be used as the affidavit required by section 8, provided it also complies with the requirements and is filed within the time limit specified in Rules 32.1 and 32.2.

In appropriate circumstances the affidavit filed under section 15 of the act may be combined with the affidavit required for renewal of a registration (see Rule 35.3).

34. CORRECTION, DISCLAIMER, SURRENDER, ETC.

34.1 **New certificate on change of ownership.** In case of change of ownership of a registered mark, a new certificate of registration may be issued in the name of the assignee for the unexpired part of the original period, at the request of the assignee. The assignment must be recorded in the Patent Office and the request must be accompanied by the required fee and by an abstract of title or an order for a title report for Office use.

34.2 **Surrender, cancellation, disclaimer in whole.** The Commissioner may permit any registration to be surrendered or cancelled, or any registered mark to be disclaimed in whole, upon application by the registrant. Application for such action must be signed by the registrant and must be accompanied by the required fee, and by an abstract of title or an order for a title report for Office use.

34.3 **Amendment and disclaimer in part.** The Commissioner may permit any registration to be amended or any registered mark to be disclaimed in part, upon application by the registrant. Application for such action must specify the amendment or disclaimer and be signed by the registrant, and must be accompanied by the required fee and by an abstract of title or an order for a title report for Office use. The certificate of registration or, if said certificate is lost or destroyed, a certified copy thereof, must also be submitted in order that the Commissioner may make appropriate entry thereon and in the records of the Office. The registration when so amended must still contain registrable matter and the mark as amended must be registrable as a whole, and such amendment or disclaimer must not involve such changes in the registration as to alter materially the character of the mark.

Changes in the description of goods other than in the nature of deletions will not be permitted except under the provisions of Rule 34.5. No amendment seeking the elimination of a disclaimer will be permitted.

A printed copy of the amendment or disclaimer shall be attached to each printed copy of the registration.

34.4 **Correction of Office mistake.** Whenever a material mistake in a registration, incurred through the fault of the Patent Office, is clearly disclosed by the records of the Office, a certificate stating the fact and nature of such mistake, signed by the Commissioner and sealed with the seal of the Patent Office, shall be issued without charge and recorded and a printed copy thereof shall be attached to each printed copy of the registration certificate and such corrected certificate shall thereafter have the same effect as if the same had been originally issued in such corrected form, or in the discretion of the Commissioner a new certificate of registration may be issued without charge.

34.5 **Correction of mistake by registrant.** Whenever a mistake has been made in a registration and a showing has been made that such mistake occurred in good faith through the fault of the applicant, the Commissioner may issue a certificate of correction, or in his discretion, a new certificate upon the payment of the required fee, provided that the correction does not involve such changes in the registration as to require republication of the mark.

Application for such action must specify the mistake for which correction is sought and the manner in which it arose, show that it occurred in good faith, be signed by the applicant, and be accompanied by the required fee and by an abstract of title or an order for a title report for Office use.

A printed copy of the certificate of correction shall be attached to each printed copy of the registration.

35. TERM AND RENEWAL

35.1 **Term of original registrations and renewals.** Registrations under the act of 1946, whether on the Principal Register or on the Supplemental Register, remain in force for twenty years, and may be renewed for periods of twenty years from the expiring period unless previously cancelled, disclaimed in whole, or surrendered.

Registrations under the acts of 1905 and 1881 remain in force for their unexpired terms and may only be renewed in the same manner as registrations under the act of 1946.

Registrations under the act of 1920 which were issued on or before January 5, 1928, expire on January 5, 1948, and such registrations issued after January 5, 1928, expire twenty years from their date of issue. Such registrations cannot be renewed unless renewal is required to support foreign registrations and in such case may be renewed on the Supplemental Register in the same manner as registrations under the act of 1946.

35.2 **Period within which application for renewal must be filed.** An application for renewal may be made by the registrant at any time within six months before the expiration of the period for which the certificate of registration was issued or renewed, or it may be made within three months after such expiration on payment of the additional fee required.

35.3 **Requirements of application for renewal.** The application for renewal must be accompanied by:

(*a*) An affidavit by the registrant stating that the mark is still in use in commerce which may lawfully be regulated by Congress, specifying the nature of such commerce. This affidavit must

be executed not more than six months before the expiration of the registration.

(*b*) The required fee, including the additional fee required in the case of a delayed application for renewal.

The affidavit and the fee must accompany the application for renewal and therefore must be filed within the period provided for applying for renewal. If defective or insufficient, they cannot be completed after the period for applying for renewal has passed; if completed after the initial six months period has expired but before the expiration of the three months delay period, the application can be considered only as a delayed application for renewal.

The application for renewal must also include:

(*c*) An abstract of title or an order for a title report for Office use.

(*d*) If the applicant is not domiciled in the United States, the designation of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark.

(*e*) If the mark is registered under the act of 1920, a verified showing that renewal is required to support foreign registrations.

35.4 **Refusal of renewal.** If the application for renewal is incomplete or defective, the renewal will be refused by the Examiner of Trade-Marks. The application may be completed or amended in response to a refusal, subject to the provisions of Rules 12.2 and 35.3.

See Rules 26.1 and 26.2 for appeal.

36. ASSIGNMENT OF MARKS

36.1 **Requirements for assignments.** A mark which has been registered or a mark for which an application for registration has been filed shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark.

Such assignments shall be by instruments in writing duly executed. Acknowledgment as provided by section 11 of the act shall be prima facie evidence of the execution of an assignment and when recorded in the Patent Office the record shall be prima facie evidence of execution. No assignment will be recorded unless it has been executed and unless:

(*a*) The certificate of registration is identified in the assignment by the certificate number (the date of registration should also be given), or, the application for registration shall have been first filed in the Patent Office and the application is identified in the assignment by serial number (the date of filing should also be given);

(*b*) It is in the English language or, if not in the English language, accompanied by a sworn translation;

(*c*) The fee for recording is received; and

(*d*) An appointment of a resident agent is made in case the assignee is not domiciled in the United States. The appointment must be separate from the assignment and there must be a separate appointment for each registration or application assigned in one instrument.

The date of record of the assignment is the date of the receipt of the assignment at the Patent Office in proper form and accompanied by the full fee for recording.

36.2 **Action may be taken by assignee of record.** Any action which may or must be taken by a registrant or applicant may be taken by the assignee, provided the assignment has been recorded, and unless such assignment has been recorded no assignee will be recognized.

36.3 **Certificate of registration may issue to assignee.** The certificate of registration may be issued to the assignee of the applicant, but the assignment must first be entered of record in the Patent Office as of a date not later than the fourth Thursday before the date the certificate of registration is to bear. See Rule 15.2.

38. UNPROVIDED FOR AND EXTRAORDINARY CASES

38.1 **Cases not specifically defined.** All cases not specifically defined and provided for by these rules will be decided in accordance with the merits of each case under the authority of the Commissioner, and such decision will be communicated to the interested parties in writing.

38.2 **Commissioner may suspend certain rules.** In an extraordinary situation, when justice requires and no other party is injured thereby, any requirement of these rules not being a requirement of the statute may be suspended or waived by the Commissioner.

39. AMENDMENT OF RULES

39.1 **Amendments to rules will be published.** All amendments to these rules will be published in the Official Gazette and in the Federal Register.

39.2 **Publication of notice of proposed amendments.** Whenever required by law, and in other cases whenever practicable, notice of proposed amendments to these rules will be published in the Federal Register and in the Official Gazette. If not published with the notice, copies of the text will be furnished to any person requesting the same. All comments, suggestions, and briefs received within a time specified in the notice will be considered before adoption of the proposed amendments which may be modified in the light thereof.

Oral hearings may be held at the discretion of the Commissioner.

40. TIME OF TAKING EFFECT

40.1 **Effective date of rules.** These rules, except Rule 4.4, shall take effect on July 5, 1947, and shall apply to all applications for registration, registrations, and proceedings under and subject to the act of 1946. Applications filed prior to July 5, 1947, and still subject to the acts under which said applications were filed shall be prosecuted and certificates granted in accordance with the act under which filed and the rules thereunder in effect immediately prior to July 5, 1947.

These rules shall apply to contested or inter partes proceedings instituted on or after July 5, 1947, and also to further inter partes action in such cases pending on July 5, 1947, except to the extent that in the opinion of the Commissioner their application to a particular case pending when these rules take effect would not be feasible or would work injustice, in which event the rules

in effect immediately prior to July 5, 1947, shall apply to such case.

Rule 4.4 shall take effect on January 1, 1948.

41. APPLICATIONS PENDING ON JULY 5, 1947

41.1 **Conversion of pending applications to act of 1946.** Applications for registration filed before July 5, 1947, and pending in the Patent Office on and after that date may be amended, if practicable, to bring them under the provisions of the act of 1946.

41.2 **Requirements of amendment.** Such amendment must supply the facts required by these rules to be included in the statement of an original application which are not contained in the statement on file, supported by a supplemental affidavit including any required averments which are not contained in the original declaration. The amendment is subject to all rules relating to or affecting amendments and must not be inconsistent with the original statment and declaration. The amendment may take the form of a substitute written application and in any case the Examiner may require the amended application to be rewritten.

The entire filing fee required for an original application under the act of 1946 must be paid, but the filing fee previously paid will be considered as part payment of such filing fee.

For the purpose of proceedings in the Patent Office, the date of filing the amendment will be considered as the filing date of the application; for the purpose of contested proceedings, the applicant may be permitted to rely on the filing date of his original application, provided the mark was registrable under the act on which the original application was based.

41.3 **Applications which cannot be amended.** An amendment to bring an application under the act of 1946 will not be considered:

(*a*) If the application is abandoned at the time the amendment is filed;

(*b*) If the application is under rejection or other action by the Examiner and the appropriate response thereto is not received within the time for response, in which case the mere filing of the proposed amendment will not avoid abandonment of the application;

(*c*) If filed after the notice of allowance has been sent; and

(*d*) In any other case if, from the nature of the particular amendment or the condition of the application, it is not practicable.

FORMS FOR TRADE-MARK CASES

1 Application for trade-mark registration by an individual, Principal Register
2 Application for trade-mark registration by a firm, Principal Register
3 Application for trade-mark registration by a corporation, Principal Register
6 Application for trade-mark registration claiming concurrent use, Principal Register
9 Application for service mark registration, Principal Register
12 Application for collective mark registration, Principal Register
13 Application for certification mark registration, Principal Register
15 Application for trade-mark registration, Supplemental Register
19 Application for trade-mark registration based on foreign registration or application
21 Application for renewal of registration by an individual
25 Affidavit under section 8
26 Affidavit under section 12(*c*)
27 Affidavit under section 15
28 Combined affidavits under sections 8 and 15
31 Notice of opposition
32 Petition for cancellation of trade-marks
33 Appeal from the Examiner of Trade-Marks to the Commissioner in ex parte cases
34 Appeal from the Examiner of Interferences to the Commissioner in contested or inter partes proceedings
35 Assignment of application for registration
36 Assignment of registered mark

The following forms illustrate the manner of preparing applications for registration of marks and various papers in trade-mark cases, to be filed in the Patent Office. Applicants and other parties will find their business facilitated by following them. These forms should be used in cases to which they are applicable. A sufficient number of representative forms are given which, with the variations indicated by the notes, should take care of all the usual situations. In special situations such alterations as the circumstances may render necessary may be made provided they do not depart from the requirements of the rules or the statute. Before using any forms the pertinent rules and sections of the statute should be studied carefully.

1. APPLICATION FOR TRADE-MARK REGISTRATION BY AN INDIVIDUAL, PRINCIPAL REGISTER

To the Commissioner of Patents:

(Statement)

_____, a citizen of _____
(name) (citizenship)
residing at _____ and doing business at _____ has adopted and is using the trade-mark shown in the accompanying drawing for _____ in Class _____
(particular description of goods) (number and title of Class)
_____ and presents herewith five specimens (or facsimiles) showing the trade-mark as actually used in connection with such goods, the trade-mark being applied to (1) _____ and requests that the same be registered in the United States Patent Office on the Principal Register in accordance with the Act of July 5, 1946.

The trade-mark was first used on (2) _____ (date)
and first used in commerce (3) _____
which may lawfully be regulated by Congress on _____. (date)

(Declaration)

Applicant being duly sworn, deposes and says that he believes himself to be the owner of the trade-mark, which is in use in commerce (3) _____ and that no other person, firm, corporation or association, to the best of his knowledge and belief, has the right to use such trade-mark in commerce which may lawfully be regulated by Congress, either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive, that the drawing and description truly represent the trade-mark sought to be registered, that the specimens (or facsimiles) show the trade-mark as actually used in connection with the goods, and that the facts set forth in the statement are true.

(Power of Attorney)

The undersigned hereby appoints _____ of _____ State of _____ Registration No. _____ (4) _____ his attorney (or agent) to prosecute this application for registration with full power of substitution and revocation, to transact all business in the Patent Office connected therewith, and to receive the certificate.

_____ (signature)

State of _____ } ss
County of _____

Before me personally appeared _____ to me known to be the person described in the above application for registration, who signed the foregoing instrument in my presence, and made oath before me to the allegations set forth therein, on the _____ day of _____ 19____.

_____ (notary public)

Notes:

(1) Insert: "the goods"; "the containers for the goods"; "displays associated with the goods," and/or, "tags or labels affixed to the goods," as the case may be.

(2) State the date on which the trade-mark was first used as a trade-mark whether or not in commerce which may lawfully be regulated by Congress.

(3) Specify kind of commerce, such as: "among the several states"; "in commerce between foreign nations and the United States"; or specify other commerce which may lawfully be regulated by Congress, as the case may be.

(4) If the attorney is not registered on the Patent Office Register the power of attorney or separate paper must recite the bar to which he has been admitted to practice as required by Rule 4.2.

If the applicant is not domiciled in the United States a domestic representative must be appointed, see Form 19 for appropriate paragraph.

2. APPLICATION FOR TRADE-MARK REGISTRATION BY A FIRM, PRINCIPAL REGISTER

To the Commissioner of Patents:

(Statement)

_____ (firm name) a firm domiciled in _____ (domicile), doing business at _____ (business address) and composed of the following members _____ (names of firm members) _____ all citizens of _____ (citizenship of firm members) has adopted and used the trade-mark shown in the accompanying drawing for _____ (particular description of goods) in Class _____ (number and title of Class) _____ and presents herewith five specimens (or facsimiles) showing the trade-mark as actually used in connection with such goods, the trade-mark being applied to _____ and requests that the same be registered in the United States Patent Office on the Principal Register in accordance with the Act of July 5, 1946.

The trade-mark was first used on _____ (date) and first used in commerce _____ which may lawfully be regulated by Congress on _____. (date)

(Declaration)

_____ being duly sworn, deposes and says that he is a member of the firm of _____ (firm name), the applicant named in the foregoing statement, that he believes that said firm is the owner of the trade-mark, which is in use in commerce _____ and that no other person, firm, corporation or association, to the best of his knowledge and belief, has the right to use such trade-mark in commerce which may lawfully be regulated by Congress either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive, that the drawing and description truly represent the trade-mark sought to be registered, that the specimens (or facsimiles) show the trade-mark as actually used in connection with the goods, and that the facts set forth in the statement are true.

(Power of Attorney)

The undersigned hereby appoints _____ _____ of _____ State of _____ Registration No. _____ its attorney (or agent) to prosecute this application for registration with full power of substitution and revocation, to transact all business in the Patent Office connected therewith, and to receive the certificate.

_____ (firm name)

By _____ (full signature of member of firm)

State of _____ } ss
County of _____

Before me personally appeared _____ to me known to be the person described in the above application for registration, who signed the foregoing instrument in my presence, and made

oath before me to the allegations set forth therein, on the _____ day of _____, 19____.

_____
(notary public)

Note: See Form 1 for appropriate notes.

3. APPLICATION FOR TRADE-MARK REGISTRATION BY A CORPORATION, PRINCIPAL REGISTER

To The Commissioner of Patents:

(Statement)

_____ a corporation (1) duly organized under the laws of _____ (state or country under which organized) located at _____ (location of corporation) and doing business at _____ (business address) has adopted and used the trade-mark shown in the accompanying drawing for _____ (particular description of goods) in Class _____ (number and title of Class) and presents herewith five specimens (or facsimiles) showing the trade-mark as actually used in connection with such goods, the trade-mark being applied to _____ and requests that the same be registered in the United States Patent Office on the Principal Register in accordance with the Act of July 5, 1946.

The trade-mark was first used on _____ (date) and first used in commerce _____ which may lawfully be regulated by Congress on _____ (date).

(Declaration)

_____ (name of affiant), being duly sworn, deposes and says that he is the _____ (official title) of _____ (corporation (1) name), the applicant named in the foregoing statement, that he believes that said corporation (1) is the owner of the trade-mark which is in use in commerce _____ and that no other person, firm, corporation or association, to the best of his knowledge and belief, has the right to use such trade-mark in commerce which may lawfully be regulated by Congress either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive, that the drawing and description truly represent the trade-mark sought to be registered, that the specimens (or facsimiles) show the trade-mark as actually used in connection with the goods, and that the facts set forth in the statement are true.

(Power of Attorney)

The undersigned hereby appoints _____ of _____ State of _____ Registration No. _____ its attorney (or agent) to prosecute this application for registration with full power of substitution and revocation, to transact all business in the Patent Office connected therewith, and to receive the certificate.

_____
(name of applicant)

By _____
(full signature of officer)

_____
(official title)

State of _____ }
County of _____ } ss

Before me personally appeared _____ to me known to be the person described in the above application for registration, who signed the foregoing instrument in my presence, and made oath before me to the allegations set forth therein, on the _____ day of _____, 19____.

_____
(notary public)

Notes:

(1) If applicant is an association, the word "association" should be substituted for the word "corporation."

See Form 1 for other applicable notes.

6. APPLICATION FOR TRADE-MARK REGISTRATION CLAIMING CONCURRENT USE, PRINCIPAL REGISTER

To the Commissioner of Patents:

(Statement)

_____, a citizen of _____ (citizenship) residing at _____ and doing business at _____ has adopted and is using the trade-mark shown in the accompanying drawing for _____ (particular description of goods) in Class _____ (number) _____ (title of Class) and presents herewith five specimens (or facsimiles) showing the trade-mark as actually used in connection with such goods, the trade-mark being applied to (1) _____ and requests that the same be registered in the United States Patent Office on the Principal Register in accordance with the Act of July 5, 1946, for the goods stated above for the area comprising (2) _____.

The trade-mark was first used by applicant on (3) _____ (date) and first used by applicant in commerce (4) _____ which may lawfully be regulated by Congress on _____ (date).

(Exceptions to claim of exclusive use)

The following exceptions to applicant's claim of exclusive use are specified:

By _____ located and doing business at _____ and using the mark _____ (description of the mark and Registration No., or application, Serial No., if any) in connection with the following _____ (particular description of goods or services) the mark being used as follows _____ (mode of application or use) _____ in the territory embracing the states of

---------- from---------- to----------;
(date) (date)
and,

By---------- located and doing business, etc.

(Declaration)

Applicant being duly sworn, deposes and says that he believes himself to be the owner of the trade-mark which is in use in commerce (4)----------and that no other person, firm, corporation or association, to the best of his knowledge and belief, has the right to use such trade-mark in commerce which may lawfully be regulated by Congress, either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive, except for the specified exceptions, that the drawing and description truly represent the trade-mark sought to be registered, that the specimens (or facsimiles) show the trade-mark as actually used in connection with the goods, and that the facts set forth in the statement are true.

(Power of Attorney)

(Use Power of Attorney and Verification of Form 1.)

Notes:

(1) Insert "the goods"; "the containers for the goods"; "displays associated with the goods," and/or, "tags or labels affixed to the goods," as the case may be.

(2) Describe the area for which registration is desired.

(3) State the date on which the trade-mark was first used as a trade-mark whether or not in commerce which may lawfully be regulated by Congress.

(4) Specify the kind of commerce, such as: "among the several states"; "in commerce between foreign nations and the United States"; or specify other commerce which may lawfully be regulated by Congress, as the case may be.

See Forms 2 and 3 for style of application by a firm and by a corporation.

---

9. APPLICATION FOR SERVICE MARK REGISTRATION, PRINCIPAL REGISTER

To the Commissioner of Patents:

(Statement)

---------- a citizen of ----------
(name of applicant) (citizenship)
residing at ---------- and doing business at ---------- has adopted and is using the service mark shown in the accompanying drawing (1) for ---------- in
(particular description of services)
Class ---------- and presents here-
(number and title of class)
with (2)---------- showing the service mark as actually used in connection with the sale or advertising of such services; the service mark being used as follows: ----------
(mode of application or use)
and requests that the same be registered in the United States Patent Office on the Principal Register in accordance with the Act of July 5, 1946.

The service mark was first used on (3)--------
(date)
and first used in the sale or advertising of services and the services rendered in commerce (4)------ ---------- which may lawfully be regulated by Congress on ----------.
(date)

(Declaration)

Applicant being duly sworn, deposes and says that he believes himself to be the owner of the service mark, which is in use in commerce (4)---------- and that no other person, firm, corporation or association, to the best of his knowledge and belief, has the right to use such service mark in commerce which may lawfully be regulated by Congress either in the identical form thereof, or in such near resemblance thereto as might be calculated to deceive; that the drawing (if any) and description truly represent the service mark sought to be registered; that (5)---------- show the service mark as actually used in connection with the sale or advertising of services, and that the facts set forth in the Statement are true.

(Power of Attorney)

(Use Power of Attorney and Verification of Form 1.)

Notes:

(1) If drawing is not possible, see Rule 9.1, insert description of the mark instead of reference to the drawing.

(2) If specimens (or facsimiles) are not possible, see Rule 10.3, state the nature of other representation furnished.

(3) State the date on which the mark was first used as a service mark whether or not the services were rendered in commerce which may lawfully be regulated by Congress.

(4) Specify kind of commerce, such as: "among the several states"; "in commerce between foreign nations and the United States"; or specify other commerce which may lawfully be regulated by Congress, as the case may be.

(5) Insert: "the specimens (or facsimiles)" or, state nature of other representation furnished.

See Forms 2 and 3 for style of application by a firm and by a corporation.

---

12. APPLICATION FOR COLLECTIVE MARK REGISTRATION, PRINCIPAL REGISTER

To the Commissioner of Patents:

(Statement)

---------- an association (1)
(name of applicant)
duly organized under the laws of ----------
(state or country under
---------- located at ----------
which organized) (location of association (1)
and doing business at ---------- has
(business address)
adopted and is exercising legitimate control over the use of the collective mark shown in the accompanying drawing for ----------
(particular description of goods)
in Class ---------- and presents here-
(number and title of Class)
with five specimens (or facsimiles) showing the collective mark as actually used in connection

with such goods by members of such organization, the collective mark being applied to (2) _____ and requests that the same be registered in the United States Patent Office on the Principal Register in accordance with the Act of July 5, 1946. The collective mark is used in connection with the goods to indicate (3) _____.

The collective mark was first used on (4) _____ (date) and first used in commerce (5) _____ which may lawfully be regulated by Congress on _____. (date)

(Declaration)

_____, _____ of (name of affiant) (official title) _____, the applicant named in (association (1) name) the foregoing statement, being duly sworn, deposes and says that he believes said association (1) is the owner of the collective mark which is in use in commerce (5) _____ and that, to the best of his knowledge and belief, no other person, firm, corporation or association has the right to authorize the use of, and no person, firm, corporation or association other than members has the right to use, such collective mark in commerce which may lawfully be regulated by Congress either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive, that the drawing and description truly represent the collective mark sought to be registered, that the specimens (or facsimiles) show the mark as actually used in connection with the goods, and that the facts set forth in the statement are true.

(Power of Attorney)

(Use Power of Attorney and Verification of Form 3.)

Notes:

(1) Or cooperative or other collective group or organization.

(2) Insert: "the goods"; "the containers for the goods"; "displays associated with the goods," and/or "tags or labels affixed to the goods," as the case may be.

(3) Membership in the organization or other appropriate statement.

(4) State the date on which the mark was first used as a collective mark whether or not in commerce which may lawfully be regulated by Congress.

(5) Specify the kind of commerce, such as: "among the several states"; "in commerce between foreign nations and the United States"; or specify other commerce which may lawfully be regulated by Congress, as the case may be.

See Forms 1 and 2 for style of application by an individual and by a firm, and Form 9 for style of application for service mark.

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13. APPLICATION FOR CERTIFICATION MARK REGISTRATION, PRINCIPAL REGISTER

To the Commissioner of Patents:

(Statement)

_____ a corporation (1) duly (name of applicant) organized under the laws of _____ (state or country under which organized) _____located at _____ (location of corporation) and doing business at _____ has (business address) adopted and is exercising legitimate control over the use of the certification mark shown in the accompanying drawing for _____ (particular description of goods) in Class _____ and presents herewith five specimens _____ showing (number and title of Class) (or facsimiles) the certification mark as actually used in connection with such goods by persons duly authorized by applicant, the certification mark being applied to (2) _____ and requests that the same be registered in the United States Patent Office on the Principal Register in accordance with the Act of July 5, 1946. The certification mark is used upon the goods to indicate (3) _____.

The certification mark was first used on (4) _____ (date) and first used in commerce (5) _____ which may lawfully be regulated by Congress on _____. (date)

(Declaration)

_____ being duly sworn, deposes (name of affiant) and says that he is the _____ of (official title) _____ the applicant named (corporation (1) name) in the foregoing statement; that he believes that said corporation (1) is the owner of the certification mark which is in use in commerce (5) _____ _____ and that to the best of his knowledge and belief, no other person, firm, corporation or association, has the right to authorize the use of such mark and that no person, firm, corporation or association other than those duly authorized by applicant has the right to use the mark in commerce which may lawfully be regulated by Congress either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive, that the drawing and description truly represent the certification mark sought to be registered, that the specimens (or facsimiles) show the certification mark as actually used in connection with the goods, that the applicant itself is not engaged in the production or marketing of goods with which the mark is used, and that the facts set forth in the statement are true.

(Power of Attorney)

(Use Power of Attorney and Verification of Form 3.)

Notes:

(1) If applicant is an association, the word "association" should be substituted for the word "corporation".

(2) Insert: "the goods"; "the containers for the goods"; "displays associated with the goods," and/or, "tags or labels affixed to the goods," as the case may be.

(3) Insert a statement that the mark certifies regional or other origin, material, mode of manufacture, quality, accuracy or other characteristic of such goods, or that the work or labor on the

goods was performed by a member of a union or other organization, or other appropriate statement.

(4) State the date on which the mark was first used as a certification mark whether or not in commerce which may lawfully be regulated by Congress.

(5) Specify kind of commerce, such as: "among the several states"; "in commerce between foreign nations and the United States"; or specify other commerce which may lawfully be regulated by Congress, as the case may be.

See Forms 1 and 2 for style of application by an individual and by a firm and Form 9 for style of application for service mark.

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16. APPLICATION FOR TRADE-MARK REGISTRATION, SUPPLEMENTAL REGISTER

To the Commissioner of Patents:

(Statement)

_____, a citizen of _____
(citizenship)
residing at _____ and doing business at _____ has adopted and is using the mark shown for _____
(particular description of goods)
_____ in Class _____ and
(number and title of Class)
presents herewith five specimens (or facsimiles) showing the mark as actually used in connection with such goods, the mark being applied to (1) _____ and requests that the same be registered in the United States Patent Office on the Supplemental Register in accordance with the Act of July 5, 1946.

The mark was first used on (2) _____
(date)
and first used in commerce (3) _____ which may lawfully be regulated by Congress on _____, and has been in lawful use in
(date)
such commerce upon or in connection with the goods for the year preceding the filing of this application. (4)

(Declaration)

Applicant being duly sworn, deposes and says that he believes himself to be the owner of the mark, which is in use in commerce (3) _____ _____ and that no other person, firm, corporation or association to the best of his knowledge and belief, has the right to use such mark in commerce which may lawfully be regulated by Congress, either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive, that the drawing (if any) and description truly represent the mark sought to be registered, that the specimens (or facsimiles) show the mark as actually used in connection with the goods, and that the facts set forth in the statement are true.

(Power of Attorney)

(Use Power of Attorney and Verification of Form 1.)

Notes:

(1) Insert: "the goods"; "the containers for the goods"; "displays associated with the goods," and/or "tags or labels affixed to the goods," as the case may be.

(2) State the date on which the trade-mark was first used as a trade-mark whether or not in commerce which may lawfully be regulated by Congress.

(3) Specify kind of commerce, such as: "among the several states"; "in commerce between foreign nations and the United States"; or specify other commerce which may lawfully be regulated by Congress, as the case may be.

(4) If appropriate, substitute for last clause: "and applicant has begun the use of such mark in commerce between the United States and _____." In the latter in-
(specify foreign country)
stance a separate showing should be submitted to the effect that domestic registration is required as a basis for foreign protection of said mark.

See Forms 2 and 3 for style of application by a firm and by a corporation.

See Forms 9, 12 and 13 for style of application for service, collective and certification marks.

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19. APPLICATION FOR TRADE-MARK REGISTRATION BASED ON FOREIGN REGISTRATION OR APPLICATION

To the Commissioner of Patents:

(Statement)

_____, a citizen of_____
(name) (citizenship)
residing at_____ and doing business at _____ has adopted and is using the trade-mark shown in the accompanying drawing for_____ in Class_____
(particular description of goods) (number
_____ and presents herewith five specimens
and title of Class)
(or facsimiles) showing the trade-mark as actually used in connection with such goods, the trade-mark being applied to (1)_____ and requests that the same be registered in the United States Patent Office on the Principal (2) Register in accordance with the Act of July 5, 1946.

Such trade-mark has been registered in_____
(country)
Registration No._____ dated_____, and said registration is now in force and effect.(3)

(Declaration)

Applicant being duly sworn, deposes and says that he believes himself to be the owner of the trade-mark, which is in use as a trade-mark and that no other person, firm, corporation or association, to the best of his knowledge and belief, has the right to use such trade-mark in commerce which may lawfully be regulated by Congress, either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive, that the drawing and description truly represent the trade-mark sought to be registered, that the specimens (or facsimiles) show the trade-mark as actually used in connection with the goods, and that the facts set forth in the statement are true.

(Domestic Representative)

_____ whose postal address is_____, _____, _____
(street) (city) (state)
is designated as applicant's representative on

whom notices or process in proceedings affecting the mark may be served.

(Power of Attorney)

The undersigned hereby appoints_____ of_____ State of_____ Registration No._____(4) _____ his attorney (or agent) to prosecute this application for registration with full power of substitution and revocation, to transact all business in the Patent Office connected therewith, and to receive the certificate.

_____
(signature)

_____ }ss
_____

Before me personally appeared_____ to me known to be the person described in the above application for registration, who signed the foregoing instrument in my presence, and made oath before me to the allegations set forth therein of the _____ day of _____ 19____.

_____(5)
(Notary Public)

Notes:

(1) Insert "the goods"; "the containers for the goods"; "displays associated with the goods," and/or "tags or labels affixed to the goods," as the case may be.

(2) Or, "Supplemental," if appropriate.

(3) If the right of priority of an application filed in a foreign country is claimed, the following paragraph should be substituted:

"Application for registration of said trademark has been filed in_____ (country) on_____ (date), Registration No._____ dated_____, and a right of priority based on this application is claimed."

If the registration has not yet been granted the registration number and date in this substitute paragraph may be left blank for subsequent insertion.

(4) If the attorney is not registered on the Patent Office Register the power of attorney or separate paper must recite the bar to which he has been admitted as required by Rule 4.2.

(5) If made in a foreign country the oath may be taken before any diplomatic or consular officer of the United States or before any official authorized to administer oaths in the foreign country concerned whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States.

See Forms 2 and 3 for style of application by a firm and by a corporation.

See Forms 9, 12 and 13 for style of application for service, collective and certification marks.

21. APPLICATION FOR RENEWAL OF REGISTRATION BY AN INDIVIDUAL

To the Commissioner of Patents:

(Application)

_____, a citizen of (1)_____ (citizenship) residing at_____ (address) and doing business at_____ (business address) requests that Certificate of Registration No. _____ granted to _____ on _____ which he now owns as evidenced by the accompanying (2)_____ be renewed(3) in accordance with the provisions of section 9 of the Trade-Mark Act of July 5, 1946.

The renewal fee of $25.00 (4) is presented herewith.

(Affidavit)

Applicant, being duly sworn, deposes and says that he is the owner of Registration No. _____ and that the mark described therein is still in use in commerce (5)_____ and that the facts recited in the application are true.

(Power of Attorney)

The undersigned hereby appoints_____ of_____ State of_____ Registration No. _____(6) _____, his attorney (or agent) to prosecute this application for renewal with full power of substitution and revocation, to transact all business in the Patent Office connected therewith, and to receive the certificate.

_____
(signature)

State _____ }ss
County of_____

Before me personally appeared_____ _____ to me known to be the person described in the above application for renewal, who signed the foregoing instrument in my presence, and made oath before me to the allegations set forth therein, on the_____ day of_____ 19____.

_____
(notary public)

Notes:

(1) If applicant is not domiciled in the United States, a domestic representative must be designated. See Form 19 for appropriate language for such designation.

(2) Abstract of title, or, title report, as the case may be.

(3) If the registration sought to be renewed is registered under the Act of March 19, 1920, here insert "on the Supplemental Register" and add the following paragraph:

"Renewal of Registration No. _____ is necessary to support Registration No._____ registered in _____ (foreign country) on _____ (date)."

(4) If the application is a delayed application for renewal, the fee is $30.00.

(5) Specify the kind of commerce, such as: "among the several states"; "in commerce between foreign nations and the United States"; or specify other commerce which may lawfully be regulated by Congress, as the case may be.

(6) If the attorney is not registered on the Patent Office Register, the power of attorney or separate paper must recite the bar to which he has been admitted as required by Rule 4.2.

25. AFFIDAVIT UNDER SECTION 8

To the Commissioner of Patents:

----------, being duly sworn, deposes and says that he is the owner of Registration No. --------, dated ----------(1), as evidenced by the accompanying (2) ---------; that the mark described therein is still in use (3)----------

(Power of Attorney)

The undersigned hereby appoints ---------- ---------- of ---------- State of ---------- Registration No. ---------- (4) ---------- his attorney (or agent) to file this affidavit, with full power of substitution and revocation, and to transact all business in the Patent Office in connection therewith.

(signature)

State of ----------
County of ---------- } ss

Before me personally appeared ---------- ---------- to me known to be the person described in the foregoing affidavit, who signed the said affidavit in my presence, and made oath before me to the allegations set forth therein on the -------- day of ---------- 19----.

(notary public)

Notes:

(1) If the mark has been republished under the provisions of subsection (c) of section 12 of the Trade-Mark Act of 1946, add the following:
"and republished ----------"
(date of republication)

(2) Abstract of title, or, title report, as the case may be.

(3) Recite sufficient facts to show that the mark is still in use and indicate the nature of such use, or, if the mark is not being used, recite sufficient facts to show that non-use is due to special circumstances which excuse such non-use and is not due to any intention of the owner to abandon the mark.

(4) If the attorney is not registered on the Patent Office Register, the power of attorney or a separate paper must recite the bar to which he has been admitted as required by Rule 4.2.

26. AFFIDAVIT UNDER SECTION 12(c)

To the Commissioner of Patents:
Registration No. ----------
Dated----------
Act of----------
To----------
(registrant)

----------, being duly sworn, deposes and says that he is the owner of Registration No. ----------, above identified, as evidenced by the accompanying (1) ----------; that said registration is now in force; that the trade-mark described therein is in use in commerce (2) ------- on each of the following goods named in said registration, ---------- ---------- and claims the benefits of the Trade-Mark Act of 1946 for said trade-mark.

(Power of Attorney)

(Use Power of Attorney and Verification of Form 25.)

Notes:

(1) Abstract of title, or, title report, as the case may be.

(2) Specify the kind of commerce, such as: "among the several states"; "in commerce between foreign nations and the United States"; or specify other commerce which may lawfully be regulated by Congress, as the case may be.

27. AFFIDAVIT UNDER SECTION 15

To the Commissioner of Patents:

----------, being duly sworn, deposes and says that he is the owner of Registration No. ----------, dated ---------- (1), that the mark described in said registration has been in continuous use in commerce (2)---------- for five consecutive years, from ---------- to ----------, subsequent to the date of registration (or republication), on or in connection with the following ----------
(particular description of goods or services)
---------- stated in the registration and that said mark is still in use in commerce (2)---------- ----------; that there has been no final decision adverse to affiant's claim of ownership of such mark (3)---------- or his right to register the same, or keep the same on the register, and, that there is no proceeding involving said rights pending in the Patent Office or in a court and not finally disposed of.

(Power of Attorney)

(Use Power of Attorney and Verification of Form 25.)

Notes:

(1) If the mark has been republished under the provisions of subsection (c) of section 12 of the Trade-Mark Act of 1946, add the following:

"and republished ----------"
(date of republication)

(2) Specify the kind of commerce, such as: "among the several states"; "in commerce between foreign nations and the United States"; or specify other commerce which may lawfully be regulated by Congress, as the case may be.

(3) Insert: "for such goods," or "for such services," as the case may be.

28. COMBINED AFFIDAVITS UNDER SECTIONS 8 AND 15

To the Commissioner of Patents:

_____,
being duly sworn, deposes and says that he is the owner of Registration No. _____, dated _____ (1), as evidenced by the accompanying (2) _____; that the mark described therein has been in continuous use in commerce (3) _____ for five consecutive years, from _____ to _____, subsequent to the date of registration, on or in connection with the following _____
(particular description of goods
_____, stated in the registra-
or services)
tion; that the mark is still in use in commerce (4) _____
_____
_____;
that there has been no final decision adverse to affiant's claim of ownership of such mark (5) _____, or his right to register the same, or keep the same on the register, and, that there is no proceeding involving said rights pending in the Patent Office or in a court and not finally disposed of.

(Power of Attorney)

(Use Power of Attorney and Verification of Form 25.)

Notes:

(1) If the mark has been republished under the provisions of subsection (*c*) of section 12 of the Trade-Mark Act of 1946, add the following:
"and republished _____"
(date of republication)

(2) Abstract of title, or, title report, as the case may be.

(3) Specify the kind of commerce, such as: "among the several states"; "in commerce between foreign nations and the United States"; or specify other commerce which may lawfully be regulated by Congress, as the case may be.

(4) Recite sufficient facts to show that the mark is still in use and indicate the nature of such use, or, if the mark is not being used, recite sufficient facts to show that non-use is due to special circumstances which excuse such non-use and is not due to any intention of the owner to abandon the mark.

(5) Insert: "for such goods," or, "for such services," as the case may be.

---

31. NOTICE OF OPPOSITION

To the Commissioner of Patents:

In the matter of an application for the registration of a trade-mark for _____
(particular goods)
Serial No. _____ by
(number and date of application)
_____, _____
(name of applicant) (location or residence of
_____, which was published on page
applicant)
_____ of the Official Gazette of _____
(volume, number) (date
_____, I _____,
of the Official Gazette) (name of opposer)
residing at _____,
(residence or location of opposer)
believe I would be damaged by such registration, and I hereby oppose the registration of said trade-mark.

The grounds for opposition are as follows:

(Here state the specific grounds of opposition and facts tending to show why the opposer believes he would be damaged by the proposed registration.)

Two specimens of the mark as used by me are attached hereto.

_____, being duly sworn
(name of opposer)
(or affirmed), deposes and says that he is the party of that name mentioned in the foregoing notice of opposition, that he has read and signed the same and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters he believes it to be true.

_____
(signature of opposer)

State of _____ } ss
County of _____

Subscribed and sworn to (or affirmed) before me this _____ day of _____.

_____
(notary public)

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32. PETITION FOR CANCELLATION OF TRADE-MARKS

To the Commissioner of Patents:

In the matter of Trade-Mark Registration No. _____, registered _____
(number of registration) (date
_____, by _____,
of registration) (name of registrant)
of _____,
(residence or location of registrant)
I, _____, residing at _____
(name of petitioner) (residence
_____, deem myself damaged
or location of petitioner)
by said registration, and hereby petition for cancellation thereof.

The grounds for cancellation are as follows:

(Here state the specific grounds for cancellation and facts tending to show why the petitioner believes he is or will be damaged by the registration.)

Two specimens of the mark as used by me are attached hereto.

_____, being duly sworn
(or affirmed), deposes and says that he is the party of that name mentioned in the foregoing petition for cancellation, that he has read and signed the same and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters he believes it to be true.

_____
(signature)

State of _____ }
County of _____ } ss

Subscribed and sworn to (or affirmed) before me this _____ day of _____.

_____
(notary public)

33. APPEAL FROM THE EXAMINER OF TRADE-MARKS TO THE COMMISSIONER IN EX PARTE CASES

(Heading, Application or Registration)

To the Commissioner of Patents:

I hereby appeal to the Commissioner from the decision rendered_____, 19____, by the Examiner of Trade-Marks in the matter of my (1)_____
_____.

The following are assigned as reasons of appeal: (Here should follow an explicit statement of the alleged errors in the decision of the Examiner of Trade-Marks.)

_____
(name of applicant)

_____
(signature)

Note:

(1) Insert one of the following applicable clauses: "application for registration, Serial No. _____, filed _____ 19____," or "application for renewal of registration No. _____, dated _____," or "affidavit filed under Section 8 of the Trade-Mark Act of July 5, 1946, in Registration No. _____, dated _____."

34. APPEAL FROM THE EXAMINER OF INTERFERENCES TO THE COMMISSIONER IN CONTESTED OR INTER PARTES PROCEEDINGS

(1)_____ } (3)_____
v. } No._____
(2)_____ }

To the Commissioner of Patents:

I hereby appeal to the Commissioner from the decision rendered_____, 19____, by the Exminer of Interferences in the above identified proceeding. The following are the points of the decision on which appeal is taken: (Here should follow an explicit statement of the alleged errors in the decision appealed from).

_____
(name of appellant)

_____
(signature)

Notes:

(1) Name of party in position of plaintiff.
(2) Name of party in position of defendant.
(3) Type (Interference, Opposition, Cancellation or Concurrent Use) and identification number of proceeding.

35. ASSIGNMENT OF APPLICATION FOR REGISTRATION

Whereas_____, of the city of _____, county of_____ and State of_____, has adopted and used in his business a trade-mark for which he has filed application for registration, Serial No. _____ dated _____ 19____, in the United States Patent Office; and

Whereas_____, of the city of _____, county of_____ and State of_____, is desirous of acquiring said mark:

Now, Therefore, To All Whom it May Concern:

Be it known that for and in consideration of the sum of_____dollars and other good and valuable consideration to him paid, the receipt of which is hereby acknowledged, said _____ by these presents does sell, assign, and transfer, unto the said _____ the entire right, title, and interest in and to the said trademark and the good will of the business in connection with which the mark is used, (1), and the Commissioner of Patents is requested to issue the certificate of registration of said mark to said assignee.

State of_____ }
County of_____ } ss

Personally appeared before me the said_____ _____ and acknowledged the above instrument as his free act and deed this _____day of_____, 19____.

_____
(notary public)

Note:

(1) Or this phrase may read in appropriate circumstances:

"that part of the good will of the business connected with the use of and symbolized by the mark."

36. ASSIGNMENT OF REGISTERED MARK

Whereas _____, of the city of _____, county of _____, and State of _____, has adopted and used in his business a trade-mark, which is registered under No. _____, dated _____, 19____, in the United States Patent Office; and

Whereas _____, of the city of _____, county of _____, and State of _____, is desirous of acquiring said mark:

Now, Therefore, To All Whom it May Concern:

Be it known that for and in consideration of the sum of _____ dollars and other good and valuable consideration to him in hand paid, the receipt of which is hereby acknowledged, said _____ by these presents does sell, assign, and transfer, unto the said _____ the entire right, title, and interest in and to the said trade-mark

and the registration thereof, No. ----------, together with the good will of the business in connection with which the said mark is used (1) ----------.

(signature)

State of ----------
County of ----------} ss

Personally appeared before me the said ---------- and acknowledged the above instrument as his free act and deed this ---------- day of ----------, 19----.

(notary public)

Note:

(1) Or the last phrase may read in appropriate circumstances:

"that part of the good will of the business connected with the use of and symbolized by the mark."

U. S. GOVERNMENT PRINTING OFFICE: 1947